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This Volume is presented by the
Lords Commissioners of His Majesty's Treasury
to the Rt: Hon: J Bryce M. P.

*His Majesty's Stationery Office,
Westminster.*

Brit. Laws, statutes, etc. compilations.

THE
STATUTORY RULES AND ORDERS
REVISED,

BEING THE STATUTORY RULES AND ORDERS (OTHER THAN
THOSE OF A LOCAL, PERSONAL, OR TEMPORARY
CHARACTER) IN FORCE ON

DECEMBER 31, 1903.

V O L. V.

FOREIGN JURISDICTION

TO

FUGITIVE CRIMINAL.

Published by Authority.



LONDON:
PRINTED UNDER THE AUTHORITY OF HIS MAJESTY'S
STATIONERY OFFICE.

And to be purchased, either directly or through any Bookseller, from
EYRE & SPOTTISWOODE, EAST HARDING STREET, FLEET STREET, E.C.; or
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EDWARD PONSOMBY, 116, GRAFTON STREET, DUBLIN.

1904.

Price Ten Shillings.

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896.2

JUL 30 1907

PREFACE.

THIS the Second Edition of the Statutory Rules and Orders Revised, contains all the Statutory Rules and Orders of a Public and General character, and the Orders in Council and Letters Patent issued under the Royal Prerogative which affect the Constitutions of Colonies, regulate Appeals to His Majesty in Council, or make Laws as to Colonial Currency in force on December 31st, 1903.

The work has been edited by Mr. Alexander Pulling, of the Inner Temple, under the direction of the Statute Law Committee, and with the assistance of the Government Departments concerned in making the Orders.

Following the arrangement of the first edition and of the volumes which have been published annually commencing with the year 1890, the Orders have been arranged under Titles and sub-titles which are the headings and sub-headings of law to which the Orders relate, the sequence of the Titles being alphabetical.

In two respects the plan differs from that previously employed:—Each Title has a separate pagination and can be obtained separately apart from the complete edition, and the Prerogative Orders have been printed under the title to which they pertain instead of as in former volumes being relegated to an Appendix.

Throughout the work each Title corresponds to a Title in the Index to the Statutes in Force and to a Title in the Index to the Statutory Rules and Orders in Force, so that any person referring to the same Title in the three works can ascertain what Statutory Power of making Orders exists, and whether and how such Power has been exercised.

A new edition of the Index to the Statutes in Force is published every autumn revised to the end of the last Session of Parliament.

A new edition of the Index to the Statutory Rules and Orders in Force, revised to December 31st, 1903, has been published simultaneously with the present Volumes.

The Statute Law Committee are much indebted to the assistance which has been rendered by the various Government Departments in the compilation of this work.

It is requested that any suggestions or corrections may be addressed to Alexander Pulling, Esq., 2 Harcourt Buildings, Temple.

TABLE OF TITLES IN VOLUME V.

FOREIGN JURISDICTION.

FORTIFICATIONS, COLONIES.

FRIENDLY SOCIETY.

FUGITIVE CRIMINAL.

(St. R. & O., Revised to December 31, 1903.)

FOREIGN JURISDICTION.*

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The Orders relating to Egypt are printed under the sub-heading "Turkey" and that relating to Morocco under that sub-heading.

(a) *Continent and Adjacent Islands*.

THE AFRICA ORDER IN COUNCIL, 1889.†

At the Court at Balmoral, the 15th day of October, 1889.

PRESENT :

The Queen's Most Excellent Majesty.

Lord Chancellor.

Viscount Cross.

Mr. Chaplin.

Whereas, by treaty, grant, usage, sufferance, and other lawful means, Her Majesty the Queen has power and jurisdiction in the parts of Africa mentioned in this Order, *and in the Island of Madagascar* : ‡

* The Orders under the Foreign Jurisdiction Acts regulating currency in Cyprus and British Protectorates are printed under the title "Coin, Colonies."

† See also The Africa Order in Council, 1892, The Africa Order in Council, 1893, and The Africa Protectorate (Capital Sentences) Order in Council, 1898, all printed below. These orders are expressly repealed, together with the main Order, as to the British Central Africa Protectorate by The British Central Africa Order in Council, 1902, printed at p. 40 below; as to the East Africa Protectorate by The East Africa Order in Council, 1897, printed in Statutory Rules and Orders, 1897, pp. 134-157, which was repealed by the East Africa Order in Council, 1902, printed at p. 68 below; and as to Uganda by The Uganda Order in Council, 1902, printed at p. 77 below. The main Order is expressly directed to cease to apply as to Northern and Southern Nigeria by The Northern Nigeria Order in Council, 1899, printed at p. 153 below, and The Southern Nigeria Order in Council, 1899, printed at p. 167 below.

‡ By Declaration of August 5, 1890, a French Protectorate was established over Madagascar; since August 1896, it has been a French colony.

Now, therefore, Her Majesty, by virtue and in exercise of the powers by the Foreign Jurisdiction Acts, 1843 to 1878,* or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

1. This Order may be cited as the Africa Order in Council, 1889.

2. This Order is divided into parts as follows :—

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PART I.—*Interpretation and Application.*

3. In this Order, unless the subject or context otherwise requires—

“Secretary of State” means one of Her Majesty’s Principal Secretaries of State ;

“Prescribed” means prescribed by any consular instructions, or by any order or notification signed or authorised by a Secretary of State ;

“Consular officer” includes any person for the time being acting by virtue of Her Majesty’s Commission, or with the authority or approval of a Secretary of State as Consul-General, Consul, or Vice-Consul, or Consular Agent ;

“Consular district” means the limits within which a consular officer is authorised to act, or such limits as may be prescribed with reference to any consular officer or Court ;

“African possession of Her Majesty” means any colony or possession of Her Majesty in Africa, and includes Mauritius ;

“Treaty” † includes any convention, agreement, or arrange-

* 6 & 7 Vict. c. 94 ; 29 & 30 Vict. c. 87 ; 38 & 39 Vict. c. 85 ; 41 & 42 Vict. c. 67 ; now repealed and consolidated by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

† Definition of “treaty” amended by the Africa Order in Council, 1893, printed at p. 37 below.

ment made by or on behalf of Her Majesty with any State or Government, King, chief, people, or tribe, and any regulation appended thereto ;

“ Court ” means any Court or person exercising jurisdiction under this Order ;

“ British subject ” includes a person enjoying Her Majesty’s protection, and includes, by virtue of 39 & 40 Vict. c. 46,* subjects of the several Princes and States in India in alliance with Her Majesty, residing and being in the parts of Africa mentioned in this Order or in the *Island of Madagascar* ; †

“ Foreigner ” means a person, whether a native or subject of Africa or not, who is not a British subject as herein defined ;

“ Native ” means a native or subject of any country within the limits of this Order, not being a British subject, nor the subject of any non-African Power ;

“ Person ” includes a corporation or association of persons ;

“ Oath ” or “ Affidavit ” includes affirmation and declaration ;

“ Month ” means calendar month ;

The plural includes the singular, and the singular the plural and the masculine the feminine.

Expressions referring to print or to writing include either print or writing, or a combination of both.

“ Crime ” includes offence.

4. The limits of this Order shall be the continent of Africa, with the maritime and interior territorial waters thereof, and the islands adjacent thereto, *and the Island of Madagascar and its dependencies* † and their territorial waters ; but the powers by this Order given shall be exercised only within and for the local jurisdictions constituted, or to be constituted, for the purposes of this Order.

5. Subject to the provisions of this part of this Order, a Secretary of State from time to time, by any consular instructions, or by any notification under his hand, may constitute, alter, or abolish local jurisdictions for the purposes of this Order. Any such instructions or notifications shall be published within the particular jurisdictions to which they relate in the manner directed by the last part of this Order for the publication of this Order, or in such other manner as a Secretary of State directs in any particular case.

6. There shall be excluded from every local jurisdiction all parts of any of the following places :—

- (1.) Any place for the time being comprised within the limits of the ordinary territorial jurisdiction of the Courts of any African possession of Her Majesty as herein defined, or of the Courts of any possession of any other non-African Power.

* The Slave Act Trade, 1876. Section 4 of this act is repealed and consolidated by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37), ss. 15, 18.

† But see note p. 1.

- (2.) The territories of Morocco, Tunis, Liberia, Zanzibar, *the South African Republic, and the Orange Free State*.*
- (3.) Any other place in which any other Order in Council under the Foreign Jurisdiction Acts (except any Order applying this Order, or any part thereof, and in so far as this Order, or any part thereof, is so applied) is for the time being in force.†
- (4.) Any place for the time being subject to the jurisdiction of the Egyptian Courts.

7. For preventing doubts, it is declared that the power of constituting, altering, or abolishing local jurisdictions for the purposes of this Order may be exercised with reference to the whole or any part or parts of any of the districts or territories for the time being included in Her Majesty's protectorate of the Niger districts or, in any other existing or future protectorate or any part or parts of the territories for the time being under the Government of the International Association of the Congo, or under the Government of the Free States under its administration, subject to and in accordance with, the provisions of the convention between Her Majesty and the said International Association signed at Berlin the 16th December 1884.‡

8. A Secretary of State, by any notification constituting or altering a local jurisdiction, may assign thereto a distinctive name or designation which may be used in any judicial or official instrument or document.

9. Until a Secretary of State otherwise provides under this part of this Order, Madagascar with its dependencies and territorial waters shall form one local jurisdiction for the purposes of this Order, and all other places within the limits of this Order (exclusive of the places which are hereby excluded from every local jurisdiction) shall form one local jurisdiction for the purposes of this Order.

10. The powers conferred by this Order within a local jurisdiction constituted under this Order shall extend to the persons and matters following, in so far as by treaty, grant, usage, sufferance, or other lawful means, Her Majesty has power or authority in relation to such persons and matters, that is to say:—

- (1.) British subjects as herein defined.
- (2.) The property and personal and proprietary rights and obligations of British subjects within the local jurisdiction (whether such subjects are or are not within the jurisdiction), including British ships with their boats and the persons and property on board thereof, or belonging thereto.
- (3.) Foreigners as herein defined who submit themselves to a Court, in accordance with the provisions of this Order.
- (4.) Foreigners as herein defined, with respect to whom any State, King, Chief, or Government, whose subjects, or under

* Now respectively the Transvaal, and Orange River Colony.

† See the Orders in Council printed below as to British Protectorates in Central, East, South, and West Africa, and as to Somaliland Protectorate.

‡ Printed in "Hertael's British and Foreign State Papers," Vol. 75, p. 29. Ratification exchanged at Brussels, May 9, 1886.

whose protection they are, has, by any treaty, as herein defined, or otherwise agreed with Her Majesty for, or consented to, the exercise of power or authority by Her Majesty.

11. Subject to the provisions and restrictions contained in this Order, and in particular to the provisions which define the law to be administered under this Order, the powers and authorities conferred by and to be exercised under this Order shall, within each local jurisdiction, comprise and include all power and authority whatsoever which under the Foreign Jurisdiction Acts or otherwise, Her Majesty is capable of conferring for the purposes expressed in this Order, and all such power and authority are hereby conferred.

PART II.—*General Law.*

12. All Her Majesty's jurisdiction exerciseable in any local jurisdiction constituted under this Order for the judicial hearing and determination of matters in difference between British subjects, or between foreigners and British subjects, or for the administration or control of the property or persons of British subjects, or for the repression or punishment of crimes or offences committed by British subjects, or for the maintenance of order among British subjects, shall be exercised under and according to the provisions of this Order, and not otherwise.

13. Subject to the other provisions of this Order, the civil and criminal jurisdiction aforesaid shall, so far as circumstances admit, be exercised upon the principles of and in conformity with the substance of the law for the time being in force in and for England, and with the powers vested in and according to the course of procedure and practice observed by and before Courts of Justice and Justices of the Peace in England, according to their respective jurisdictions and authorities.

14. Except as to offences made or declared such by this Order or by any regulation or rule made under it—

Any Act other than an act that would by a Court of Justice having criminal jurisdiction in England, be deemed a crime or offence making the person doing such act liable to punishment in England shall not, in the exercise of criminal jurisdiction under this Order, be deemed a crime or offence, making the person doing such act liable to punishment.

15. A Secretary of State may from time to time, by order published in such manner as he directs, declare that any of the laws or ordinances for the time being in force in any African possession of Her Majesty as herein defined, and not inconsistent with this Order, shall have effect and be administered under this Order in relation to any place or places within the limits of any local jurisdiction, with such modifications or adaptations as may be necessary; and thereupon such laws or ordinances, as so modified or adapted, shall have effect, in accordance with such order, as if they had been applied by this Order.

16. The provisions of any treaty with Her Majesty or Her

successors for the time being in force with respect to any place within the limits of any local jurisdiction shall have effect as part of the law to be enforced under this Order in relation to such place, and in case of inconsistency between such provisions and the law in force in England, or anything contained in this Order, effect shall be given to such provisions.

17. Crimes, offences, wrongs, and breaches of contract against or affecting the person, property, or rights of natives of Africa, or other foreigners as herein defined, committed by persons subject to this Order, are punishable or otherwise cognizable under the provisions of this Order, with the consent of such natives or foreigners, in the same manner as if they were committed against or affected the person, property, or rights of British subjects.

18. This Order shall not, except as herein expressly provided, abridge, affect, or interfere with any power or authority exercisable otherwise than under this Order, whether by virtue of any statute or Order in Council, or of any Colonial law, or of any treaty; or otherwise, and whether exercisable by Her Majesty or by any Colonial Legislature or Colonial or Consular or other Court, or under any Commission, and in particular shall not interfere with any power or authority exercisable under or by virtue of the Act 1 & 2 Geo. IV. c. 28, or under or by virtue of the Acts 24 & 25 Vict. c. 31, and 34 & 35 Vict. c. 8 (relating to offences committed in territories adjacent to Sierra Leone, Gambia, Gold Coast, Lagos, and the adjacent protectorates), or under or by virtue of the Act 26 & 27 Vict. c. 35 (relating to South Africa), or the Acts 36 & 37 Vict. c. 59,* or 42 & 43 Vict. c. 38† (both relating to the Slave Trade), or the British Settlements Act, 1887 (50 & 51 Vict. c. 54), or under or by virtue of any enactment for the time being substituted for or amending any of the said Acts:‡ and all powers and authorities in this Article mentioned shall continue to exist concurrently with and independently of the powers and authorities exercisable under this Order.

PART III.—*Constitution of Courts.*

Consular Courts.

19. Every person for the time being holding Her Majesty's Commission as a Consul-General, Consul, or Vice-Consul, or acting in any of such capacities by the authority of a Secretary of State, shall, if so authorised by a Secretary of State, hold and form a Consular Court under this Order, in and for such district, within any local jurisdiction constituted by or under this Order, and at such place or places within such district as a Secretary of State directs, and subject to any prescribed limitations or restrictions as to the exercise of the powers and authorities conferred by this Order.

* The Slave Trade (East African Courts) Act, 1873; sections 4, 5 of this Act were repealed and consolidated by the Colonial Courts of Admiralty Act, 1890 (53 & 54 Vict. c. 27), sections 13, 18.

† The Slave Trade (East African Courts) Act, 1879.

‡ See the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

In case Her Majesty is pleased to direct the appointment of a person not holding such Commission, nor acting as aforesaid, to perform as a Judge or Judicial Officer or Commissioner in or for any district, place, or region to which this Order applies, all or any of the judicial powers or authorities by this power vested in a Consular Court, a person so appointed by authority of a Secretary of State, in such form as the Secretary of State directs, shall in like manner hold and form a Court, and for the purposes of, and subject to, any limitations contained in his appointment, shall have all the same powers and authorities which under this Order can be exercised by a Consular Court, and shall be removable by authority of a Secretary of State; and it shall be lawful for a Secretary of State, by any such appointment or otherwise, to make provision for assigning to such Judge or Judicial Officer or Commissioner, and to any person acting as Consul-General, Consul, or Vice-Consul for the same district, place, or region, or any part thereof respectively, such of the powers or authorities exercisable under this Order, to be exercised by them, either separately or concurrently, as the Secretary of State from time to time directs, and under such description or designation as he directs.

Throughout this Order the expressions "Consular Courts" or "Court," or "Consul" or "Judge" (when used in relation to a Court), include a Consul-General, Consul, Vice-Consul, or other Judge, Judicial Officer, Commissioner, or person exercising power or authority under this Article; and expressions referring to the district of a Court or to a district refer to a district for or within which any person is appointed to act under this Article.

It shall be lawful for a Secretary of State, or for any Consul as herein defined, with the authority of a Secretary of State, from time to time, by order in writing, to appoint places at which Courts shall be held for any district, and to determine the number and description of the officers (if any) to be attached to any such Court and the mode of their appointment and removal, and their duties and remuneration, and any matters incident to any of such purposes.

A printed copy of any such appointment, authority, or order as in this Article mentioned, purporting to bear the seal of a Consul or of a Court, shall in all causes and matters be admitted as evidence of the contents, and due making and publication thereof.

Each Court shall have such seal as may be prescribed by any such order as aforesaid.

20. Every Judge of a Superior Court of any African possession of Her Majesty, and the Consul-General of Zanzibar, may exercise within the limits of any prescribed local jurisdiction constituted by or under this Order, any power or authority which can be exercised by any Court under this Order.

Courts of Appeal.

21. The Superior Court of any African possession of Her Majesty, and the Superior Court exercising jurisdiction in Bombay,

shall be Courts of Appeal from the prescribed Courts acting under this Order, but the Appellate jurisdiction hereby conferred shall be exercised by any such Court of Appeal only where an appeal to that Court of Appeal is authorised in the particular case in the manner provided by this Order.

In the case of the Colony of the Cape of Good Hope, or of the Colony of Natal, an appeal cannot be authorised until and unless the Court authorising the appeal is satisfied that provision for entertaining such appeal has been made by the Legislature of that colony.*

PART IV.—*General Powers of Courts and General Procedure.*

22. Except as otherwise provided by this Order, Her Majesty's jurisdiction, civil and criminal, exercisable under this Order, shall, to the extent and in the manner provided by this Order, be vested in the Consular Courts, each for and within its own district.

23. The several Courts acting under this Order shall be auxiliary to one another in all particulars relative to the administration of justice, civil or criminal.

24. Every Consular Court shall, in the exercise of every part of its respective jurisdiction, be a Court of Record.

Every Consular Court shall be a Court of law and of Equity.

25. Any Consul-General to whom a district within the limits of this Order is assigned may from time to time admit fit persons to practise in the Courts of such districts as barristers and solicitors, or in either of those capacities; and may from time to time, subject to the approval of one of Her Majesty's Principal Secretaries of State, make rules for regulating the admission of persons to practise as aforesaid in such Courts.

26. In any matter, civil or criminal, a Court within whose district (in civil matters) the matter of complaint wholly or in part arose or happened, or the subject in dispute is wholly or partly situate, or the contract in question was wholly or partly made, or the breach thereof wholly or partly occurred, or the defendant resides or carries on business, or (in criminal matters) the crime was wholly or partly committed, or the accused person happens to be, shall have jurisdiction, and may deal with the case, as if every material fact or thing had happened or was situate within its district; but any such Court, if in its opinion, justice or convenience so requires, may decline or suspend the exercise of jurisdiction, and may, if it thinks necessary or just, require security from the defendant or accused person for his appearance before some other Court having jurisdiction in the matter, and for obedience to any judgment or order of such other Court, and further, in a criminal case, if necessary, may arrest and commit the accused person, and cause him to be removed under warrant and in custody, to be dealt with by such other Court.

* Act 1890, No. 3, of the Legislature of the Cape of Good Hope.

27. Every Court acting under this Order shall have power to rehear any civil matter, and to review its judgments or orders in any civil case in which in the opinion of the Court justice so requires, on such terms as to costs and otherwise as the Court thinks just.

Minutes.

28. In every case, civil or criminal, heard in any Court, proper minutes of the proceedings shall be drawn up, and shall be signed by the Judge or officer before whom the proceedings are taken, and sealed with the seal of the Court, and shall, where assessors are present, be open for their inspection and for their signature if concurred in by them.

The minutes, with depositions of witnesses and notes of evidence taken at the trial by the Judge or officer, shall be preserved in the public office of the Court.

Registrar.

29. Any registrar of the Court or person acting as registrar, and any other officer of the Court designated in this behalf by the Judge of the Court, may administer oaths, and take affidavits, declarations, and affirmations.

30. The Judge of any Court shall be and act as the registrar of the Court, if there is no other person appointed to be registrar there.

Costs, Fees, &c.

31. In a civil case any Court may order such costs, or costs, charges, and expenses, as to the Court seem reasonable, to be paid by any party to the proceedings, or out of any fund to which the proceedings relate.

32. All costs and all charges and expenses of witnesses, prosecutions, punishments, and deportations, and other charges and expenses, and all fees, fines, forfeitures, and pecuniary penalties payable under this Order and all judgments, may be enforced by arrest or by distress and seizure and sale of ships, goods, and lands, and, in default of sufficient distress, by imprisonment; and no bill of sale, or mortgage, or transfer of property, made with a view to security in regard to crimes committed, shall be of any avail to defeat any provision of this Order.

Imprisonment in default of distress shall not, except as may be provided by rules of procedure made under this Order, operate as a discharge or satisfaction.

33. Where money ordered by the Court to be paid is due for seaman's wages, or is other money recoverable under the Merchant Shipping Acts or other law relating to ships, and the person ordered to pay has not paid as ordered, the Court, in addition to other powers for compelling payment, shall have power to direct that the amount unpaid be levied by seizure and sale of the ship.

Arbitration and Reconciliation.

34. Every Court may promote reconciliation, and encourage and facilitate the settlement in an amicable way of any suit or proceeding pending before it.

A Court may, with the consent of the parties, refer to arbitration the final determination of any suit or proceeding pending before it, or of all matters in difference between the parties, on such terms and with such directions as to appointment of an arbitrator and other things as may seem fit, and may, if it thinks fit, take from the parties, or any of them, security to abide by the result of the reference.

In any such case, the award shall be final and conclusive.

On the application of any party a decree of the Court may be entered in conformity with the award, and such decree shall not be open to any appeal or rehearing whatever, except on the ground that it is not in conformity with the award.

Every agreement for reference to arbitration or submission to arbitration by consent may, on the application of any party, be made a rule of a Court having jurisdiction in the matter of the reference or submission, which Court shall thereupon have power and authority to enforce the agreement or submission and the award made thereunder, and to control and regulate the proceedings before and after the award in such manner and on such terms as may be just.

Informalities.

35. No proceeding under this Order shall be invalidated by any informality, mistake, or omission so long as, in the opinion of any Court before which any question arises, the essential requisites of law and justice have been complied with, or may be met by amendment.

PART V.—*Special Powers (Bankruptcy, Probate, &c.).*

36. Every Court shall be a Court of Bankruptcy, and as such shall, as far as circumstances admit, have for and within its own district, with respect to British subjects and to their debtors and creditors, being either British subjects or foreigners submitting to the jurisdiction of the Court, all such jurisdiction as for the time being belongs to any judicial authority having for the time being jurisdiction in bankruptcy in England.

37. Every Court shall be a Vice-Admiralty Court and as such shall, for and within its district and for vessels and persons coming to and within the district of the Court, have all such jurisdiction as for the time being ordinarily belongs to Vice-Admiralty Courts in Her Majesty's possessions abroad.

38. Every Court shall be a Court of Probate, and as such shall, as far as circumstances admit, have, for and within its district with respect to the property of British subjects appearing to the Court to have at the time of death their fixed places of abode in

the district of the Court, all such jurisdiction as for the time being belongs to any Court exercising probate jurisdiction in England.

Probate or administration granted by a Court shall have effect over all the property of the deceased within the district, and shall effectually discharge persons dealing with an executor or administrator thereunder, and that notwithstanding any defect afterwards appears in the grant.

Such a grant shall not be impeachable by reason only that the deceased had not at the time of his death his fixed place of abode within the particular jurisdiction.

39. Any person having in his possession or under his control any paper or writing of a deceased British subject being or purporting to be testamentary, shall forthwith deliver the original to the Court within the district whereof such person is at the time of his first knowledge of the death of the deceased, and deposit it there.

Any person neglecting to do so for fourteen days after having knowledge of the death of the deceased shall be liable to such penalty, not exceeding 50*l*., as the Court thinks fit to impose.

40. From the death of a British subject, having at the time of his death his fixed place of abode in the district of a Court, intestate until administration granted, his personal property in the district of the Court shall be vested in the Judge of the Court.

41. If any person other than one of Her Majesty's consular officers takes possession of or in any manner administers any part of the personal property of any person deceased without obtaining probate or administration within three months after the death of the deceased, or within one month after the termination of any suit or dispute respecting probate or administration (if there is any such which is not ended within two months after the death of the deceased), he shall be liable to such penalty not exceeding 100*l* as the Court having jurisdiction in the matter of the property of the deceased thinks fit to impose; and in every such case the same fees shall be payable by the person so administering as would have been payable by him if he had obtained probate or administration.

42. Where a British subject not having at the time of death his fixed place of abode in the district of a Court dies there, the Court within whose district he dies shall, where the circumstances of the case appear to the Court so to require, forthwith on the death of the deceased, or as soon after as may be, takes possession of his personal property within the particular jurisdiction, or put it under the seal of the Court (in either case, if the nature of the property or other circumstances so require, making an inventory), and so keep the property until it can be dealt with according to law.

43.—(1.) In a case of apparent intestacy, where the circumstances of the case appear to the Court so to require, for reasons recorded in the minutes, the Court may, if it thinks fit, of its own motion, or otherwise, grant administration to the Judge or an officer of the Court.

(2.) Any officer so appointed shall act under the direction of the Court, and shall be indemnified thereby.

(3.) A commission of $2\frac{1}{2}$ per cent. on the gross value may be charged on an estate administered under this article.

(4.) All expenses incurred on behalf of the Court in the execution of this article and the said commission shall be the first charge on the personal property of the deceased in the district of the Court; and the Court shall, by sale of part of that property or otherwise, provide for the discharge of those expenses and the payment of the said commission.

44. Where it appears to the Court that the value of the property or estate of a deceased person does not exceed 100*l* the Court may, without any probate or letters of administration, or other formal proceeding, pay thereout any debts or charges, and pay, remit, or deliver any surplus to such persons in such manner as a Secretary of State from time to time directs, and shall not be liable to any action, suit, or proceedings in respect of anything done under this article.

PART VI.—*Criminal Law and Procedure.*

45. The crimes punishable under this Order are:—

(1.) Any acts or omissions which are for the time being punishable in England on indictment, with death, penal servitude, or imprisonment, as treasons, felonies, or misdemeanours.

(2.) Acts or omissions by this Order, or by any regulations made by virtue of this Order, declared to be punishable as offences against this Order.

46. In case an act or omission is punishable both as a crime under the law in force in England and as an offence against this Order, the accused person may be tried and punished for such act or omission, either as a crime, as aforesaid, or as an offence against this Order, but he shall not be liable to be tried or punished in both ways.

47. Any British subject may be proceeded against, tried, and punished under this Order for the crime of piracy wheresoever committed.

Offences against this Order.

48. If any British subject does any of the following things without Her Majesty's authority, that is to say:—

Levies war, or takes any part in any operation of war against, or aids or abets any person in carrying on war, insurrection, or rebellion against any King, Chief, tribe, or Power, every person so offending shall be deemed guilty of an offence against this Order, and, on conviction thereof, shall be liable (in the discretion of the Court before which he is convicted) to be punished by imprisonment for any term not exceeding two years, with or without hard labour, and with or without a fine not exceeding 1000*l*, or by a fine not exceeding 1000*l* without imprisonment.

In addition to such punishment, every such conviction shall of itself, and without further proceedings, make the person convicted liable to deportation, and the Court before which he is convicted may order that he be deported to such place as the Court directs.

49. A person shall be deemed guilty of an offence against this Order—

- (1) who wilfully or knowingly acts in contravention of any such treaty as defined in this Order or of any regulations appended thereto ;
- (2) who acts in contravention of any of the Queen's Regulations to be made under this Order, or of any rules or regulations for the time being in force made under the authority of the West Africa Order in Council of 1872 ; *
- (3) who, without reasonable and lawful excuse (proof of which shall lie on the accused person), endangers peace by disturbing any religious ceremony or observance, or publicly insulting any minister of any religion, or violating or insulting any place or object of religious worship, or doing any other act of a similar nature, whether in relation to any native or other form of religion or superstition.

50. A person shall be deemed guilty of an offence against this Order—

Who smuggles or imports into or exports from any place any goods with intent to avoid payment of any duty payable thereon to any recognised Chief, or King, Government, tribe, or people, or any goods the importation or exportation whereof (as the case may be) into such place is prohibited by any such Chief, King, Government, tribe, or people of such place.

A person convicted of an offence against this article shall be liable to imprisonment for any term not exceeding three months, or fine not exceeding 50*l*, or both of those punishments ; and any goods smuggled or imported in contravention of this article may, on conviction of the offender, or if he absconds or evades trial, be declared forfeited to Her Majesty, together with any ship, boat, cask, case, or receptacle, wholly or partly belonging to the offender, and containing such goods.

51. If any person subject to the criminal jurisdiction of a Court does any of the following things, namely :—

- (1.) Wilfully by act or threat obstructs any officer of or person executing any process of the Court in the performance of his duty ; or
- (2.) Within or close to the room or place where the Court is sitting wilfully misbehaves in a violent, threatening, or disrespectful manner to the disturbance of the Court, or to the intimidation of suitors or others resorting thereto ; or
- (3.) Wilfully insults any member of the Court, or any assessor, or any person acting as a clerk or officer of the Court during

* Published in "London Gazette," February 27th, 1872, p. 762: this Order was repealed by the West Africa Order in Council, 1885, which is repealed by Article 113 of the 1889 Order.

his sitting or attendance in Court, or in his going to or returning from Court; or

- (4.) Does any act in relation to the Court or a Judge thereof, or matter a pending therein, which, if done in relation to a Superior Court in England, would be punishable as a contempt of such Court, or as a libel on such Court, or the Judges thereof, or the administration of justice therein.

Such person shall be liable to be apprehended by order of the Court with or without warrant, and on inquiry and consideration, and after the hearing of any defence which such person may offer, without further process or trial, to be punished with a fine not exceeding £10, or with imprisonment not exceeding twenty-four hours. A minute shall be made and kept of every such case of punishment, recording the facts of the offence and the extent of the punishment, and a copy of the minute shall be forthwith sent to the Secretary of State.

Provided that, if the Court thinks fit, instead of proceeding under the preceding provisions, it may direct or cause the offender to be tried in a separate criminal prosecution or proceeding in which the offender shall be liable to be tried and punished for his offence as an offence against this Order.

Nothing herein shall interfere with the power of the Court to remove or exclude persons who interrupt or obstruct the proceedings of the Court.

52. If any person subject to the criminal jurisdiction of a Consular Court does any act or makes any publication of such kind, and under such circumstances, that, in the opinion of the Consular Court, grave danger to public order is thereby occasioned, the Court shall have the same powers as it has in relation to apprehended breaches of the peace.

53. If any clerk or officer of a Court acting under pretence of the process or authority of the Court is charged with extortion or with not duly paying any money levied, or with other misconduct, the Court may (without prejudice to any other liability or punishment to which the clerk or officer would in the absence of the present provision be liable) inquire into the charge in a summary way, and for that purpose summon and enforce the attendance of all necessary persons in like manner as the attendance of witnesses and others may be enforced in a suit, and may make such Order thereupon for the repayment of any money extorted, or for the due payment of any money levied, and for the payment of such damages and costs as the Court thinks just; and the Court may also, if it thinks fit, impose such fine upon the clerk or officer not exceeding £100 for each offence, as seems just.

54. A Consular Court shall have jurisdiction to make an Order requiring a person to contribute in such manner as the Court directs to the support of his wife or child, whether legitimate or not, being in the opinion of the Court under the age of 16 years. Any such Order may be made in a summary way as if the neglect to provide for the support of such wife or child were an offence

against this Order, and a failure to comply with any such Order shall be deemed to be an offence against this Order, and shall be punishable accordingly, and the Court may direct any penalty imposed for such offence to be applied for the support of such wife or child in such manner as the Court thinks fit.

55. Any act which, if done in the United Kingdom or in a British possession, would be an offence against any of the following Statutes of the Imperial Parliament or Orders in Council, that is to say :—

The Merchandise Marks Act, 1887 ; *

The Patents, Designs, and Trade Marks Acts, 1883 to 1888.†

Any Act, Statute, or Order in Council for the time being in force, relating to copyright, or to inventions, designs, or trade marks‡ ;

Any Statute amending or substituted for any of the above-mentioned Statutes—

Shall, if done by a British subject within the limits of this Order, be punishable as an offence against this Order, whether such act is done in relation to any property or right of a British subject, or of a foreigner or native, or otherwise :

Provided—

- (1.) That a copy of any such Statute or Order in Council shall be published in every Consular Court, and shall be there open for inspection by any person at all reasonable times ; and a person shall not be punished under this article for anything done within the district of a Court before the expiration of one month after such publication therein ;
- (2.) That a prosecution by or on behalf of a prosecutor who is not a British subject shall not be entertained without the consent in writing of the Court, which may withhold such consent, unless it is satisfied that effectual provision exists for the punishment in Consular or other Courts of similar acts committed by the subjects of the State or Power of which such prosecutor is a subject, in relation to or affecting the interests of British subjects.

56. Where any act or omission is by virtue of this Order, or of any regulation made under this Order, an offence against this Order, and no penalty or punishment is specified in respect thereof, such offence shall be punishable with imprisonment for not exceeding three months, or fine not exceeding £100, or both.

Criminal Procedure.

57. Every Court may cause to be apprehended and brought before it any British subject being within the district of the Court

* 50 & 51 Vict. c. 28.

† 46 & 47 Vict. c. 57 ; 48 & 49 Vict. c. 63 ; 49 & 50 Vict. c. 37 ; 51 & 52 Vict. c. 50.

‡ See the Orders in Council printed under the titles " Copyright," " Patent Designs and Trade Marks."

and charged with having committed a crime in the district of the Court, and may deal with the accused according to the jurisdiction of the Court and in conformity with the provisions of this Order; or where the crime is triable, and is to be tried, in Her Majesty's dominions, may take the preliminary examination, and commit the accused for trial, and cause or allow him to be taken to the place of intended trial.

58.—(1.) Where a person, subject to the criminal jurisdiction of the Court, is charged with an offence on a summons or warrant issuing out of the Court, he shall be brought before the Court within forty-eight hours after service of the summons or execution of the warrant, unless in any case circumstances unavoidably prevent his being brought before the Court within that time, which circumstances shall be recorded in the minutes.

(2.) In every case he shall be brought before the Court as soon as circumstances reasonably admit, and the time and circumstances shall be recorded in the minutes.

59.—(1.) Where an accused person is in custody, he shall not be remanded at any time for more than seven days, unless circumstances appear to the Court to make it necessary or proper that he should be remanded for a longer time, which circumstances, and the time of remand, shall be recorded in the minutes.

(2.) In no case shall a remand be for more than fourteen days at one time, unless in case of illness of the accused person or other case of necessity.

60.—(1.) Except in cases of murder, an accused person may be admitted to bail at any stage of the proceedings.

(2.) Where the offence charged is one of the following, it shall be in the discretion of the Court to admit the accused to bail or not, according to the circumstances, namely:—

Felony (not being murder).

Riot.

Assault on an officer of the Court in the execution of his duty, or on any person acting in his aid.

Neglect or breach of duty by an officer of the Court.

(3.) In all other cases except murder the Court shall admit the accused to bail, unless in any instance the Court, having regard to the circumstances, see good reason to the contrary, which reason shall be recorded in the minutes.

61. Where a person is charged before a Consular Court with a crime punishable with death or penal servitude for twenty years or upwards, the Court, on being satisfied by information or evidence on oath that there is reasonable ground for putting such person upon his trial for such crime, shall cause him to be removed for trial to one of the African possessions of Her Majesty, if the Court is satisfied that the attendance of the necessary witnesses for the prosecution and defence respectively at the proposed place of trial can be secured, but otherwise shall commit him for trial within the district.

In case a person is so removed for trial, the provisions of the Foreign Jurisdiction Act, 1843,* section 4, shall be observed.

62. In the case of any crime other than as in the last preceding article mentioned, and which is by the law administered in the Consular Court punishable with imprisonment for twelve months or upwards, or with any greater punishment, it shall be in the discretion of the Consular Court, regard being had to all the circumstances of the case, and in particular to the practicability of procuring the necessary witnesses for the prosecution and defence to attend at a trial elsewhere than within the district, either to cause the accused person to be removed for trial as in the last preceding article mentioned, or to commit him for trial within the district.

63. A person tried before a Consular Court for a crime to which either of the two last preceding articles applies shall, if practicable, be tried by the Court with assessors, unless he consents to be tried without assessors.

64. A person charged with a crime which is not punishable with imprisonment for twelve months or upwards, or with any greater punishment, or charged with an offence against this Order, shall be tried by the Consular Court, with or without assessors, as the Court thinks fit.

65. Every Court and authority in imposing and inflicting punishments shall have regard, so far as circumstances admit and subject to the other provisions of this Order, to the punishments imposed by the law of England in like cases, and to the mode in which the same are inflicted in England.

66. Any Court may order any person convicted before it of any crime or offence to pay all or any part of the expenses of or preliminary to his trial, and of his imprisonment or other punishment.

Where it appears to any Court that any charge made before it is malicious, or is frivolous and vexatious, the Court may order all or any part of the expenses of the prosecution to be paid by the person making the charge.

In either of the two last-mentioned cases, the amount ordered to be paid shall be deemed a debt due to the Crown, and may, by virtue of the Order, without further proceedings, be levied on the property of the person convicted or making the charge as the case may be, or may be enforced by imprisonment for not exceeding one month or until payment.

67.—(1.) The Court may, if it thinks fit, order a person convicted of an assault to pay to the person assaulted, by way of damages, any sum not exceeding £20.

(2.) Damages so ordered to be paid may be either in addition to or in lieu of a fine, and shall be recoverable in like manner as a fine.

* 6 & 7 Vict. c. 94, now repealed and consolidated with other Acts by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

(3.) The person convicted shall not be liable to an action for the assault.

68. If, on a trial, the Court is of opinion that the accused attempted to commit the offence with which he is charged, but did not complete it, he shall not be therefore acquitted, but the Court may find him guilty of the attempt, and may adjudge him to be punished as if he had been charged with the attempt.

He shall not be liable to be afterwards prosecuted for the offence.

69. If, on the trial of a person charged with robbery, the Court is of opinion that the accused committed an assault with intent to rob, but did not commit robbery, he shall not be therefore acquitted, but the Court may find him guilty of the assault, and may adjudge him to be punished as if he had been charged with the assault.

He shall not be liable to be afterwards prosecuted for the assault.

70. If on a trial for any of the following offences, namely, burglary, or stealing in a dwelling-house, or breaking and entering and stealing in a shop, warehouse, or counting-house, or a building within the curtilage of a dwelling-house, or larceny, or feloniously receiving property stolen, embezzled, or otherwise feloniously taken, obtained, or disposed of, the facts proved authorise a conviction for one of those offences, not being the offence charged, the Court may find the accused guilty of that other offence, and may adjudge him to be punished, as if he had been charged with that other offence.

He shall not be liable to be afterwards prosecuted for that other offence.

71. If any person procures or endeavours to procure or incites any other person to commit a crime or offence, he shall be punishable on conviction in the same manner as if he were convicted of an attempt to commit that crime or offence. If the crime or offence is actually committed in pursuance of the procurement or incitement, both persons may be tried and punished for that crime or offence as principal offenders.

72. Sentences of imprisonment passed by a Consular Court shall be carried into effect in such prisons and in such manner as a Secretary of State from time to time directs.

If there be no such prison, or if, by reason of the condition of any such prison, or the state of health of the prisoner, or on any other ground, the Consular Court thinks that the sentence ought not to be carried into effect in such prison, the prisoner shall, by warrant under the hand and seal of the Consul, be removed in custody to one of Her Majesty's African possessions, there to undergo his sentence.

Any sentence of imprisonment under this Order may be with or without hard labour, as the Court directs.

A sentence of death shall be carried into effect in one of Her Majesty's African possessions.

When a person is sent to a colony for execution of a sentence

of death or imprisonment, the provisions of the 5th section of the Foreign Jurisdiction Act, 1843,* shall be observed.

72A. Whenever under this Order a person is to be removed for trial, or for the execution of a sentence of imprisonment or death, to one of Her Majesty's African possessions, he shall be removed to one of the following possessions of Her Majesty, that is to say :—

Sierra Leone.
Gold Coast.
Lagos.
Mauritius.
Seychelles.
Cape Colony.
Natal.
[Zululand.†]

Provided—

- (1.) That a person shall not be so removed to the Cape Colony or Natal without the consent of the Government of the Cape Colony or Natal (as the case may be);
- (2.) That a person shall not be removed to Mauritius or Seychelles [*except from Madagascar or its dependencies or territorial waters*‡], without the consent of a Secretary of State; and
- (3.) That, subject as aforesaid, in determining to which of the above-mentioned possessions the person is to be removed, regard shall be had to the place of birth or domicile of the person removed, and to any considerations with respect to convenience of trial and the attendance of witnesses, and subject thereto the removal shall be directed to be made to the nearest of the above-mentioned possessions to which the person can be removed.

73. It shall be lawful for a Consular Court, from time to time, by order or warrant under the seal of the Court, to appoint any building or place specified in such order or warrant to be a prison for any purpose of this Order, either generally or in relation to a particular case, or for a limited time, and to appoint such persons as the Court thinks fit to be gaolers, keepers, or officers of any such prison.

74. A Secretary of State may remit or commute, in whole or in part, any sentence of a Consular Court.

[*In every case of sentence of death the minutes of the trial shall be transmitted to a Secretary of State, and the sentence shall not be carried into effect until confirmed by him.*§]

When a Consular Court sentences a person to imprisonment

* 6 & 7 Vict. c. 94, now repealed and consolidated with other Acts by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

† Now incorporated in Natal by Letters Patent of December 1, 1897, printed under the title "Natal."

‡ But see note, p. 1.

§ The words in brackets were repealed as to British Protectorates by the Order of 1898, printed at p. 39 below.

exceeding twelve months, or fine exceeding 100*l*, or in any other case, if a Secretary of State by any general or particular instruction so directs, the sentence shall be submitted to the prescribed Court of Appeal for review in the manner hereafter in this Order prescribed.

75. Where a sentence is under this Order submitted for review, the Consular Court shall transmit the minutes of the case, with such observations as the Consul thinks necessary, and the Court of Appeal shall return the minutes, with such instructions as they think fit to give, either as to findings of fact, or as to law, or as to mitigation of sentence, and the Consular Court shall give effect to such instructions.

Pending the review of a sentence, the Consular Court may suspend the execution of the sentence, but is not obliged so to do unless so directed by the Court to whom the case is submitted or by a Secretary of State. In either case the Consular Court may (unless otherwise directed) take such security by way of bail or otherwise, and if necessary by commitment to prison for safe custody, as it thinks necessary for submission to the ultimate sentence.

76. Where a person charged with having committed a crime or offence in the district of one Court escapes or removes from that district, and is found within the district of another Court, the Court within the district of which he is found may proceed in the case to examination, indictment, trial, and punishment, or in a summary way (as the case may require), in the same manner as if the crime or offence had been committed in its own district; or may, on the requisition or with the consent of the Court of the district in which the crime or offence is charged to have been committed, send him in custody to that Court, or require him to give security for his surrender to that Court, there to answer the charge and be dealt with according to law.

Where any person is to be so sent in custody a warrant shall be issued by the Court within the district of which he is found, and such warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person therein named, and to carry him to and deliver him up to the Court of the district within which the crime or offence was committed according to the warrant.

77. Where a warrant or order of arrest is issued by a competent authority in Her Majesty's dominions for the apprehension of a British subject, who is charged with having committed a crime or offence within the jurisdiction of the authority issuing the warrant or order, and who is, or is supposed to be, in the district of a Court, and the warrant or order is produced to the Court, the Court may back the warrant or order; and the same when so backed shall be sufficient authority to any person to whom the warrant or order was originally directed, and also to any constable or other officer of the Court by which it is backed, to apprehend the accused at any place where the Court by which the warrant or order is backed has jurisdiction, and to deliver him

on board any ship in African waters into the custody of any person having authority to receive and carry him in custody to Her Majesty's dominions.

78.—(1.) In cases of murder or manslaughter, if either the death or the criminal act which wholly or partly caused the death happened within the jurisdiction of a Court acting under this Order, such Court shall have the like jurisdiction over any British subject who is charged either as the principal offender or as accessory before the fact to murder, or as accessory after the fact to murder or manslaughter, as if both such criminal act and the death had happened within such jurisdiction.

(2.) In the case of any crime committed on the high seas, or within the Admiralty jurisdiction, by any British subject on board a British ship, or on board a foreign ship to which he did not belong, a Court acting under this Order shall have jurisdiction as if the crime had been committed within the district of such Court. In cases tried under this provision no different sentence can be passed from the sentence which could be passed in England if the crime were tried there.

(3.) The foregoing provisions of this article shall be deemed to be adaptations, for the purposes of this Order and of the Foreign Jurisdiction Act, 1878,* of the following enactments described in the First Schedule to that Act (that is to say) :—

The Admiralty Offences (Colonial) Act, 1849.†

The Admiralty Offences (Colonial) Act, 1860.‡

The Merchant Shipping Act, 1867,§ section 11. And the said enactments shall, so far as they are repeated and adapted by this article (but not further or otherwise), extend to all places within the limits of every local jurisdiction constituted under this Order.

79. The Fugitive Offenders Act, 1881,|| shall apply to each local jurisdiction constituted under this Order as if such local jurisdiction were a British possession, subject to the conditions, exceptions, and qualifications following :—

(1.) The said Act shall apply only in the case of British subjects.

(2.) The principal British consular officer for the time being in the jurisdiction, or person acting as such by authority of a Secretary of State, is for the purposes of the said Act substituted for the governor of a British possession, and for a superior Court, or a Judge thereof, in a British possession, and for a magistrate or justice of the peace in a British possession.

(3.) So much of the fourth and fifth sections of the said Act as relates to the sending a report of the issue of a warrant, together with the information, or a copy thereof, or to the sending of a certificate of committal and report of a case,

* 41 & 42 Vict. c. 67, now repealed and consolidated with other Acts by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

† 12 & 13 Vict. c. 96.

‡ 23 & 24 Vict. c. 122.

§ 31 & 32 Vict. c. 129, now repealed and consolidated with other Acts by the Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60).

|| 44 & 45 Vict. c. 69.

or to the information to be given by a magistrate to a fugitive, shall be excepted.

- (4.) So much of the sixth section of the said Act as relates to *habeas corpus*, and as requires the expiration of fifteen days before issue of a warrant shall be excepted.
- (5.) The said consular officer shall not be bound to return a fugitive offender to a British possession unless satisfied that the proceedings to obtain his return are taken with the consent of the governor of that possession.

For the purposes of Part II. of the said Act, Madagascar * and Mauritius shall be deemed to be one group of British possessions, and any other local jurisdiction constituted under this Order shall be deemed, together with Her Majesty's African possessions other than Mauritius, to be one group of British possessions.

80. The Colonial Prisoners Removal Act, 1884,† shall apply to each local jurisdiction constituted under this Order as if each local jurisdiction constituted under this Order were a British possession and part of Her Majesty's dominions, subject as follows :—

The principal consular officer in any district shall, in relation to such district, be substituted for the governor of a British possession.

81. Nothing in this Order shall be deemed to affect Her Majesty's prerogative of pardon.

PART VII.—*Appeals.*

82. In civil matters an appeal shall lie from a Consular Court to the prescribed Court of Appeal by the leave of the Consular Court, or without such leave where leave is given by the Court of Appeal.

The appeal shall be brought within such time and in such manner, as regards the form and transmission of the appeal, and as to stay of execution and otherwise, as may be prescribed by any rules of procedure made under this Order, or as in any case by any special leave or Order the said Court of Appeal may direct.

A Consular Court may, before deciding any civil matter, state a case in writing for the opinion of the prescribed Court of Appeal, and shall give effect to such opinion, and when a case has been so stated, no appeal shall be brought against the decision of the Consular Court in conformity therewith unless by leave of the same Court of Appeal.

As regards matters not provided for by this article, the procedure on appeal in the Court of Appeal may be the same as the ordinary procedure of that Court upon the hearing of any application for a new trial, or upon a case stated or reserved for the opinion of the Court, and the judgment or order of such Court in the appeal shall be certified under its seal to the Consular Court which shall give effect thereto.

The decision of a Court of Appeal under this Order shall be

* But *see* note, p. 1.

† 47 & 48 Vict. c. 31.

subject to appeal to Her Majesty in Council, in the same manner and on the same conditions as to the amount involved and otherwise as any other decision of the same Court of Appeal.

PART VIII.—*Evidence.*

83.—(1.) In any case, criminal or civil, and at any stage thereof, the Court, either of its own motion, or on the application of any party, may summon a British subject to attend to give evidence, or to produce documents, or to be examined.

(2.) If the person summoned, having reasonable notice of the time and place at which he is required to attend, fails to attend and be sworn, and give evidence, or produce documents, or submit to examination accordingly, and does not excuse his failure to the satisfaction of the Court, he shall be guilty of an offence against this Order.

(3.) A person punished under this article shall not be liable to an action in respect of the same matter ; and any such action, if begun, shall be stayed by the Court in such manner and on such terms as the Court thinks fit.

84.—(1.) In a criminal case, where it is proved that a British subject is likely to give material evidence, either for the prosecution or for the defence, and that he will not voluntarily attend to give evidence, the Court may issue a summons for his attendance.

(2.) If he does not obey the summons, and does not excuse his failure to the satisfaction of the Court, then, after proof of service of the summons, the Court may issue a warrant to compel his attendance.

(3.) Where it is proved that he will not attend to give evidence unless compelled to do so, the Court may issue a warrant in the first instance.

85. In civil cases any Court may, where the circumstances appear to justify it, order that the expenses of a witness, on his appearing to give evidence shall be defrayed by the parties or any of them.

86. Any person appearing before a Court to give evidence in any case, civil or criminal, may be examined or give evidence on oath in the form or with the ceremony that he declares to be binding on his conscience.

87. Any British subject wilfully giving false evidence in any suit or proceeding, civil or criminal, or on any arbitration, or in any affidavit, shall be deemed guilty of wilful and corrupt perjury.

88. Judicial notice shall be taken of this Order, and of the commencement thereof, and of the appointment of consular or other officers, and of the constitution and limits of any jurisdiction, Court, or district, and of consular seals and signatures, and of any rules or regulations made or in force under this Order, and no proof shall be required of any of such matters.

89. Every signature or seal affixed to any instrument purport-

ing to be the signature of any consular officer or person acting under this Order, or to be the seal of any of Her Majesty's Courts, shall, for all purposes under this Order, without any proof thereof, be presumed to be genuine, and shall be taken as genuine until the contrary is proved.

90. A person attending to give evidence before the Court, or the Court of Appeal, shall not be compelled or allowed to give any evidence or produce any document if, in the opinion of the principal consular officer having authority in the district in which the Court is held signified by him personally or in writing to the Court, the giving or production thereof would be injurious to Her Majesty's service.

91.—(1.) The provisions of the Evidence Act, 1851, 14 & 15 Vict. c. 99, sections 7 and 11, relating to the proof of judicial and other documents, shall extend and be applied for all purposes as if the district were in a British colony.

(2.) The following Acts, namely :—

The Foreign Tribunals Evidence Act, 1856,*

The Evidence by Commission Act, 1859,†

The Evidence by Commission Act, 1885,‡

or so much thereof as is for the time being in force, and any enactment for the time being in force amending or substituted for the same, are hereby extended to all places and Courts to which this Order applies with the adaptations following, namely :—

In the said Acts the Court is hereby substituted for a Supreme Court or a Judge of a Court in a colony.

(3.) The following Acts, namely :—

The British Law Ascertainment Act, 1859,§

The Foreign Law Ascertainment Act, 1861,||

or so much thereof as is for the time being in force, and any enactment for the time being in force amending or substituted for the same are hereby extended to all places and Courts to which this Order applies, with the adaptations following, namely :—

In the said Acts the Court is hereby substituted for a Superior Court in a colony.

PART IX.—Assessors.

92. Where a Court proceeds, in pursuance of this Order, to hear and determine any case, civil or criminal, with assessors, the Court shall nominate and summon as assessors not less than two and not more than four indifferent British subjects of good repute, resident in the district of the Court or belonging to a British ship.

Where, however, by reason of local circumstances, the Court is able to obtain the presence of one fit person only as assessor, the Court may sit with him alone as assessor; and where for like reasons the Court is not able to obtain the presence of any

* 19 & 20 Vict. c. 113.

† 48 & 49 Vict. c. 74.

‡ 24 & 25 Vict. c. 11.

§ 22 Vict. c. 20.

|| 22 & 23 Vict. c. 63.

fit person as assessor, the Court may (notwithstanding anything in this Order) sit without an assessor ; but in every such case the Court shall record in the minutes of proceedings its reasons for sitting with one assessor only, or without an assessor.

An assessor shall not have voice or vote in the decision of the Court in any case, civil or criminal ; but an assessor dissenting in a civil case from any decision of the Court, or in a criminal case from any decision of the Court, or the conviction, or the amount of punishment awarded, may record in the minutes of proceedings his dissent and the grounds thereof ; and an assessor dissenting shall be entitled to receive gratis a certified copy of the minutes.

93. Where a suit relates to money, goods, or other property of a less amount or value than 300*l.*—and does not relate to or involve, directly or indirectly, a question respecting any matter at issue of the amount or value of 300*l.* or upwards—and is not brought for recovery of damages of a greater amount than 300*l.*—the Court may hear and determine the case without assessors.

In all other civil cases the Court (subject to the provisions of this Order respecting inability to obtain an assessor) shall hear and determine the case with assessors.

94. If any person summoned to act as assessor fails, without lawful excuse, to attend at the trial, or at any adjournment thereof, or to continue to serve throughout the trial, he shall be liable, under a summary Order of the Court, to a fine not exceeding 10*l.* to be levied by attachment and sale of his goods within the district, and in default of recovery thereby of the fine, to be imprisoned for any time not exceeding six days, if the fine is not sooner paid.

PART X.—*Rules of Procedure.*

95. Every consular officer holding a Court for any district may from time to time frame rules for any purpose for which it is in this Order expressed or implied that rules of procedure or practice are to be made, and the execution of judgments or Orders, and for the regulation of appeals in civil and in criminal cases, and of rehearings, and generally for the purpose of making any provision proper or necessary for the proper or effectual exercise of the jurisdiction of Courts under this Order, and may thereby impose reasonable penalties, and may provide for the enforcement of any judgment or Order by imprisonment for not exceeding one month.

Rules affecting the conduct of civil suits shall be so framed as to secure, as far as may be, that cases shall be decided on their merits according to substantial justice, without excessive regard to technicalities of pleading or procedure, and without unnecessary delay.

Rules framed under this article shall not have effect unless and until they are approved by a Secretary of State, save that in case of urgency declared in any rules framed by the consular officer, the same shall have effect unless and until they are dis-

approved by a Secretary of State, and notification of such disapproval is received and published by the consular officer.

The rules, regulations, and forms contained in the schedule to this Order may be used with such modifications as circumstances require, and shall be deemed to have been duly made and approved under this Order, but may be altered with the approval of a Secretary of State in relation to any district in the same manner as other rules made under this Order.*

96. Provision may, amongst other things, be made by rules under this Order authorising the Court to grant and enforce search warrants, and to enforce awards, and to enforce by distress, or by attachment or commitment, judgments or Orders of the Court, or payment of any damages, costs, penalties, fines, or forfeitures, and for the sale of things forfeited, and for garnishee process, and for attachments of property in order to compel appearance or submission to the jurisdiction or process of the Court, and authorising the Court to compel, by fine, distress, or recognition, or in default of security by commitment, the attendance of witnesses before the Court or before a Colonial or English Court to which a case is sent for trial, and to fix and enforce the fees to be taken in respect of any proceedings under this Order, not exceeding, as regards any matters provided for by the Act of 6 Geo. IV. c. 87,† fees fixed and allowed from time to time by any Order in Council made under that Act, and to take and transmit depositions of witnesses for use at trials in a colony or in England, and to appoint forms of indictment or charge in criminal proceedings: Provided that the scales of all fees fixed under the provisions of this Order shall have been sanctioned by the Commissioners of Her Majesty's Treasury.

97. A copy of the rules for the time being in force shall be kept exhibited conspicuously in each Court and Consulate.

Printed copies shall be provided and sold at such reasonable price as the consular officer from time to time directs.

No penalty shall be enforced in any Court for the breach of any rule until the rule has been so exhibited in the Court for one month, unless the person offending is proved to have had express notice of the rule.

A printed copy of any rule, purporting to be certified under the hand of the consular officers shall be for all purposes conclusive evidence of the due framing, approval, and publication of the contents thereof.

98. From and after the commencement of any rules made under this Order, all rules and regulations theretofore in force in the district in respect of the same matter in respect whereof rules are made under this Order shall cease to operate.

* These Rules and Regulations are printed at length in Statutory Rules and Orders Revised (1st Edition), Vol. 3, pp. 294-332: they have been superseded as to many Protectorates and Territories, and are therefore here omitted.

† The Consular Fees Act, 1826, now repealed (except sections 10-15 in part) by the Consular Salaries and Fees Act, 1891 (54 and 55 Vict. c. 36). See Orders in Council under that Act printed under the title "Consul, British."

PART XI.—*Treaties and Queen's Regulations.*

99. Every Consul, according to the authority to be assigned to him under this Order, shall have power to make and alter regulations (to be called Queen's Regulations) for the following purposes (that is to say):—

- (1.) For securing the observance of any treaty for the time being in force relating to any place to which this Order applies, or of any native or local law or custom whether relating to trade, commerce, revenue, or any other matter.
- (2.) For the peace, order, and good government of British subjects within any such place in relation to matters not provided for by this Order.
- (3.) For requiring returns to be made of the nature, quantity, and value of articles exported from or imported into his district, or any part thereof, by or on account of any British subject or in any British ship, and for prescribing the times and manner at or in which and the persons by whom such returns are to be made.
- (4.) For the governance, visitation, care, and superintendence of prisons.

Any regulations under this article may provide for forfeiture of any goods, receptacles, or things in relation to which, or to the contents of which, any breach is committed of such regulations, or of any treaty or any native or local law or custom, the observance of which is provided for by such regulations.

Any regulations made under this article shall, when allowed by a Secretary of State, and published as he directs, have effect as if contained in this Order.

Any rules or regulations heretofore made under the authority of the West Africa Order in Council, 1872,* or of any Order in Council repealed by this Order, and which are in force at the time of the commencement of this Order, and which are not expressly repealed by this Order, shall, notwithstanding the repeal of that Order, continue in force until revoked by a Secretary of State, but shall be subject to the provisions of this Order, and so far as they are inconsistent with any provision of this Order, or with any regulations or rules made under this Order, this Order, and any regulations or rules made under it, shall have effect.

A breach of any such regulations shall be deemed to be an offence against this Order, and shall be punishable accordingly in addition to any forfeiture as aforesaid.

PART XII.—*Foreigners and Foreign Courts.*†***Suits by or against Foreigners.***

100.—(1.) Where a foreigner desires to institute to take a suit or proceeding of a civil nature against a British subject, or a British subject desires to institute or take a suit or proceeding

* Published in "London Gazette," February 27, 1872, p. 762.

† But see the Order of 1892, printed at p. 35 below, under which all Foreigners as thereby defined are justiciable in the Courts of British Protectorates.

of a civil nature against a foreigner, the Court may entertain the suit or proceeding, and hear and determine it (and if all parties desire, or the Court directs a trial with assessors, then with assessors) at a place where such a trial might be had if all parties were British subjects, and in all other respects according to the ordinary course of the Court.

(2.) Provided that the foreigner (i.) first files in the Court his consent to the jurisdiction of the Court; and (ii.) also, if required by the Court, obtains and files a certificate in writing from a competent authority of his own Government, to the effect that no objection is made by that Government to the foreigner submitting in the particular cause or matter to the jurisdiction of the Court; and (iii.) also, if required by the Court, gives security to the satisfaction of the Court, to such reasonable amount as the Court directs, by deposit of money or otherwise, to pay fees, costs, damages, and expenses, and to abide by and perform the decision to be given by the Court or on appeal.

(3.) A counter-claim or cross suit cannot be brought or instituted in the Court against a plaintiff, being a foreigner, who has submitted to the jurisdiction, by a defendant, except by leave of the Court first obtained.

(4.) The Court, before giving leave, requires proof from the defendant that his claim arises out of the matter in dispute, and that there is reasonable ground for it, and that it is not made for vexation and delay.

(5.) Nothing in this article prevents the defendant from instituting or taking in the Court against the foreigner, after the termination of the suit or proceeding in which the foreigner is plaintiff, any suit or proceeding that the defendant might have instituted or taken in the Court against the foreigner if no provision restraining counter-claims or cross suits had been inserted in this Order.

(6.) Where a foreigner obtains in the Court an order against a defendant being a British subject, and in another suit that defendant is plaintiff and the foreigner is defendant, the Court may, if it thinks fit, on the application of the British subject, stay the enforcement of the order pending that other suit, and may set off any amount ordered to be paid by one party in one suit against any amount ordered to be paid by the other party in the other suit.

(7.) Where a plaintiff, being a foreigner, obtains in the Court an order against two or more defendants, being British subjects, jointly, and in another suit one of them is plaintiff and the foreigner is defendant, the Court may, if it thinks fit, on the application of the British subject, stay the enforcement of the order pending that other suit, and may set off any amount ordered to be paid by one party in one suit against any amount ordered to be paid by the other party in the other suit, without prejudice to the right of the British subject to require contribution from his co-defendants under the joint liability.

(8.) Where a foreigner is co-plaintiff in a suit with a British subject who is within the particular jurisdiction, it is not necessary for the foreigner to make deposit or give security for costs, unless

the Court so directs ; but the co-plaintiff British subject is responsible for all fees and costs.

Foreign Tribunals.

101.—(1.) Where it is shown to a Court that the attendance of a British subject to give evidence, or for any other purpose connected with the administration of justice, is required in a native or foreign Court, or before a native or foreign judicial officer, or in a Court, or before a judicial officer of any State in amity with Her Majesty, the Court may, if it thinks fit, in a case and in circumstances in which it would require his attendance before itself, order that he do attend and give evidence and produce documents as so required. The order may be made subject to conditions as to payment or tender of expenses or otherwise.

(2.) A Court, however, cannot so order attendance at any place beyond its particular jurisdiction.

(3.) If the person ordered to attend, having reasonable notice of the time and place at which he is required to attend, fails to attend accordingly, and does not excuse his failure to the satisfaction of the Court, or if he refuses to give evidence, or wilfully gives false evidence, or fails to produce documents which he is properly required to produce, he is, independently of any other liability, guilty of an offence against this Order, and for every such offence, on conviction thereof, by summary trial, is liable to a fine not exceeding 100*l.*, or to imprisonment for not exceeding one month in the discretion of the Court.

PART XIII.—*Deportation and Removal.*

102.—(1.) Where a person is convicted before a Court of any crime or offence, the Court may in addition to or in lieu of any other sentence order him to give security to the satisfaction of the Court, by recognizance, deposit of money, or otherwise, for future good behaviour, and in default of such security may order him to be deported forthwith, or after undergoing any other sentence which may be passed upon him, to the prescribed African possession of Her Majesty, or to such other part of Her Majesty's dominions as a Secretary of State, with the concurrence of the Commissioners of Her Majesty's Treasury, from time to time, directs in this behalf.

(2.) Where, upon or without any complaint or charge made, it appears to a Court that there is reason to believe that any person is about to commit a breach of the peace, or that his conduct is likely to produce or excite a breach of the peace, the Court may order him to give security as above-mentioned for peace and good behaviour, and in default may order him to be deported as aforesaid.

(3.) An order for deportation shall be executed in the manner provided by this Order, with respect to the removal of persons from a district. It may, in any case with reference to which the Secretary of State, by any general or special directions, so directs, provide for the deportation of the person to whom it refers, in

the first instance to any place to which such person can, under this Order, be deported, and also for his further deportation from that place to any other place to which he could lawfully have been deported in the first instance.

(4.) The Court, as part of an order for deportation, may order that the person to be deported pay all or any part of the expenses of his deportation, to an amount specified in the order.

(5.) A report of every order for deportation, stating the grounds thereof and the proceedings thereunder, shall forthwith be made to a Secretary of State, who may at any time remit such order.

(6.) An order for deportation may be expressed to be in force for a time to be limited therein, or for an unlimited time.

(7.) If a person deported from a district returns while the order is in force, without the written consent of the Court or of a Secretary of State, which consent may be given subject to any terms as to security for good behaviour or otherwise, he is guilty of an offence against this Order, and in addition to any other punishment for such offence he may be again deported on a fresh warrant under the original order or under a new order.

103. Where a person is to be removed from a district, either for trial in another district, or in England, or in a colony, or for the execution of a sentence in a colony, or under an order of deportation, a warrant for the purpose shall be issued by the Judge of the Court under his hand and seal, and the person may, under such warrant, be taken to and put on board of one of Her Majesty's ships, or some other fit ship, and shall be conveyed in such ship or otherwise to the place named in the warrant.

Pending removal, the person shall, if the Court so orders, by indorsement on the warrant, be arrested and detained in custody or in prison until an opportunity for removal occurs.

On arrival at the place named in the warrant, the person, if removed under an order of deportation, shall be discharged, or otherwise shall be handed over to the proper gaoler, constable, magistrate, or officer.

Where a warrant of deportation provides for further deportation from the place to which the person is first deported to some other place, the person shall, on his arrival at such first-mentioned place, be delivered with the warrant into the custody of the chief magistrate or officer of police at that place who shall detain him, and shall forthwith report the case to the governor or person administering the Government at that place, who shall either cause him to be further deported with and in accordance with the warrant, and in the meantime to be detained in custody for any necessary period not exceeding three months, or, if the circumstances of the case appear to render his discharge expedient, shall discharge him from custody.

A warrant of removal is sufficient authority to the person to whom it is directed or delivered for execution, and to the person in command of any ship, and to every person acting under the warrant or in aid of any such person, to take, receive, detain, convey, and deliver the person named therein in the manner thereby

directed, and generally is sufficient authority for anything done in execution or intended execution of the warrant.

A warrant of removal must be issued in duplicate, and the person executing it must on arriving at the place named, deliver one of the duplicates with the prisoner to the proper gaoler, constable, magistrate, or officer.

PART XIV.—*Registration.*

104.—(1.) Every British subject resident in a consular district, being of the age of twenty-one years or upwards, or being married, or a widower or widow, though under that age, must, in every January, register himself at the Consular Court of the district within which he is resident.

(2.) Every British subject not resident in a consular district, arriving within the district of a Consular Court, unless borne on the muster-roll of a British or foreign vessel, must within one month after arrival, register himself at the Consular Court.

(3.) But this provision does not require any person to register himself oftener than once in a year, beginning 1st January.

(4.) The registration of a man comprises the registration of his wife, if living with him ; and

(5.) The registration of the head, male or female, of a family comprises the registration of all females, being relatives of such head, in whatever degree, living under the same roof with him at the time of his registration.

(6.) The Consul shall yearly give to each person registered a certificate of registration, signed by the Consul, and sealed with his Consular seal.

(7.) The name of a wife, if her registration is comprised in her husband's, shall, unless in any case the Consul sees reason to the contrary, be indorsed on the husband's certificate.

(8.) The names and descriptions of females whose registration is comprised in that of the head of the family shall, unless in any case the Consul sees reason to the contrary, be indorsed on the certificate of the head of the family.

(9.) Every person on every registration shall pay a fee of 2s. 6d.

(10.) The amount of the fee may be uniform for all persons, or may vary according to the position and circumstances of different classes, if the Secretary of State from time to time so directs, but may not in any case exceed 5s.

(11.) Every person by this provision required to register himself must, unless excused by the Consul, attend personally for that purpose at the Court, on each occasion of registration.

(12.) If any person fails to comply with the requirements of this article, and does not excuse his failure to the satisfaction of the Consul, he is guilty of an offence against this Order, and shall be liable to a fine not exceeding 5*l.*, and any Court or authority may, if it thinks fit, decline to recognise him as a British subject.

PART XV.—*Official.*

105. Except as in this Order expressly provided, nothing in this Order shall preclude any of Her Majesty's consular officers from performing any act not of a judicial character, which Her Majesty's consular officers might by law or by virtue of usage or sufrance, or otherwise, have performed if this Order had not been made.

106. Whenever an acting consular officer has commenced the hearing of any cause or matter, civil or criminal, he may, unless the consular officer otherwise directs, continue and complete the hearing and determination thereof, notwithstanding that his authority to act as such consular officer has otherwise ceased by reason of the expiration of the time for which he was appointed to act, or by reason of the happening of any event by which his authority is determined.

107. Any suit or proceeding shall not be commenced in any of Her Majesty's Courts against any person for anything done or omitted in pursuance or execution or intended execution of this Order, or of any regulation or rule made under it, unless notice in writing is given by the intending plaintiff or prosecutor to the intended defendant one clear month before the commencement of the suit or proceeding, nor unless it is commenced within three months next after the act or omission complained of, or in case of a continuation of damage within three months next after the doing of such damage has ceased.

The Plaintiff in any such suit shall not succeed if tender of sufficient amends is made by the defendant before the commencement thereof; and if no tender is made the defendant may by leave of the Court at any time pay into Court such sum of money as he thinks fit, whereupon such proceeding and Order shall be had and made in and by the Court as may be had and made on the payment of money into Court in an ordinary suit.

PART XVI.—*Fees and Expenses.*

108. All fees, fines, forfeitures, confiscations, and pecuniary penalties, and all commissions levied or received under this Order shall be accounted for, paid, and applied as a Secretary of State with the concurrence of the Commissioners of Her Majesty's Treasury from time to time directs.

109. Subject to the other provisions of this Order, all expenses of removal of prisoners and others, and the expenses of deportation, and of the sending of any person to England, shall be defrayed in such manner as a Secretary of State with the concurrence of the Commissioners of Her Majesty's Treasury from time to time directs.

PART XVII.—*Supplemental.*

110. Where, by virtue of any Imperial Act or of this Order or otherwise any provisions of any Imperial Acts, or of any law, or of any Orders in Council, other than this Order are applicable within any local jurisdiction or district constituted under this Order or any form, regulation, or procedure prescribed or established under any such Act or law, are, or is, so applicable, the same shall be deemed applicable so far only as the constitution and jurisdiction of the Courts acting under this Order and the local circumstances permit, and for the purpose of facilitating application may be construed or used with such alterations and adaptations as may be necessary, and anything required to be done by or to any Court, Judge, officer, or authority, may be done by or to a Court, Judge, officer, or authority having the like or analogous functions, or by any officer designated by a Secretary of State, or by the Court (as the case may require) for that purpose, and the seal of the Court may be substituted for any other seal; and in case any difficulty occurs in the application it shall be lawful for a Secretary of State to direct by, and to whom, and in what manner, anything is to be done, and such Act, law, order, form, regulation, or procedure shall be construed accordingly.

111. Sums of money, fines, forfeitures, penalties, or fees payable under this Order, shall be calculated and paid in English money, or, with the consent of the Court, in its equivalent in local currency or produce, or bills of exchange, approved by the Court.

112. In case Her Majesty appoints any Consul-General, Judge, Commissioner, or other person to exercise within the whole or part of any local jurisdiction constituted under this Order appellate jurisdiction in relation to Consular Courts within the limits of his appointment, the following provisions shall have effect :—

- (1.) He shall have in all civil and criminal matters an extraordinary original jurisdiction concurrent with that of the Judge of any such Court, and such extraordinary jurisdiction shall be exercised in such classes of cases or particular cases as subject to the terms of his appointment or commission and to any instructions of a Secretary of State he thinks fit to direct.
- (2.) He shall have such other powers or authorities over the Consular Courts and the officers thereof as his appointment or commission may specify, and all consular or other officers in executing this Order shall, so far as such powers or authorities extend, conform to his directions.
- (3.) In cases in which he does not exercise original jurisdiction, an appeal from a Consular Court may be brought to him in the like cases and manner in which under this Order an appeal may be brought to the Court of Appeal, and by his leave a further appeal shall lie in like manner to the Court of Appeal.

Rules of procedure under this Order may be made for any of the purposes of this article.

PART XVIII.—*Commencement, Publication, Repeals, and
Temporary Provisions.*

113. From the commencement of this Order, the West Africa Order in Council, 1885,* and the Order in Council for Madagascar, dated the 4th February 1869,† shall be repealed, but this repeal shall not affect the past operation of those Orders, or any existing right, title, obligation, or liability, or the validity of any rules or regulations made or confirmed under those Orders, or revive anything thereby repealed.

114. Nothing in this Order, or in any rules made under it, shall apply to, or in any manner affect, any suit or proceeding either of a civil or of a criminal nature, pending at the commencement of this Order, either with reference to the original proceedings therein or with reference to any appeal therein, or otherwise, subject, nevertheless, as follows:—

In any suit or proceeding, whether of a civil or of a criminal nature, the Court before which the same is pending at the commencement of this Order, after hearing the parties, or of its own motion, or on the application of either party, or by consent, may, if it seems fit, from time to time direct that the procedure and practice prescribed by this Order or by any rule made under it be followed in any respect.

115. This Order shall commence and have effect as follows:—

- (1.) As to the making of any warrant or appointment under this Order, immediately from and after the date of this Order.
- (2.) As to the framing of rules of procedure or regulations and the approval thereof by one of Her Majesty's Principal Secretaries of State, immediately from and after the date of this Order.
- (3.) As to the repeal of former Orders, and as to all other matters and provisions comprised and contained in this Order, as regards each district immediately from and after the expiration of one month after this Order is first exhibited in the public office of the principal consular officer for that district; for which purpose he is hereby required forthwith, on receipt by him of a copy of this Order, to affix and exhibit the same conspicuously in his public office, and he is also hereby required to keep the same so affixed and exhibited during one month from the first exhibition thereof; and notwithstanding anything in this Order, the time of the expiration of the said month shall be deemed to be the time of the commencement of this Order.
- (4.) Proof shall not in any proceeding or matter be required that the provisions of this article have been complied with, nor shall any act or proceeding be invalidated by any failure to comply with any of such provisions.

116. A copy of this Order shall be kept exhibited conspicuously in each Consular Court.

* Published in "London Gazette," April 10, 1885, pp. 1617-23.

† Published in "London Gazette," February 5, 1869, p. 584.

Printed copies shall be provided and sold at such reasonable price as the consular officer, subject to any direction of a Secretary of State, may fix.

And the Most Honourable the Marquis of Salisbury and the Right Honourable Lord Knutsford, two of Her Majesty's Principal Secretaries of State, and the Lords Commissioners of the Treasury and the Lords Commissioners of the Admiralty are to give the necessary directions herein as to them may respectively appertain.

C. L. Peel.

Schedule referred to in foregoing Order in Council.

RULES AND REGULATIONS FOR PROCEDURE IN CIVIL AND CRIMINAL CASES.

[These Rules and Regulations are printed at length in *Statutory Rules and Orders Revised (1st Edition)*, Vol. 3, pp. 294–332: they have been superseded as to many Protectorates and Territories, and are therefore here omitted.]

“THE AFRICA ORDER IN COUNCIL, 1892.”

At the Court at Windsor, the 28th day of June, 1892.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.
Lord Chamberlain.

Secretary Lord Knutsford.

Whereas by treaty, grant, usage, sufferance, and other lawful means, Her Majesty the Queen has power and jurisdiction in the parts of Africa mentioned in the Africa Order in Council, 1889 ; *

And whereas by the General Act of the Conference of Berlin signed in 1885,† the several Powers who were parties thereto (in this Order referred to as the Signatory Powers) declared, with respect to occupations in Africa by any of the Signatory Powers, that the establishment of authority in protected territories was an obligation resting upon the respective protecting Powers ;

And whereas, in order to the due fulfilment of the said obligation as respects territories and places, within the limits of the above-mentioned Order, which Her Majesty shall have declared to be under the protection of Her Majesty, it is necessary that the subjects of the Signatory Powers, other than Her Majesty, should be justiciable under the said Order in like manner as British subjects, and for this purpose that the provisions of the said Order referring to British subjects should, as far as practicable, be extended to the subjects of those Powers ;

And whereas it is expedient that the powers conferred upon a Secretary of State by the Africa Order in Council, 1889,* should be extended so as to provide for the application to territories and

* Printed at pp. 1–35 above. The Africa Orders have been withdrawn as to certain Protectorates, see footnote, p. 1.

† Signed February 26, 1885 ; ratified at Berlin, April 19, 1886, and printed in “*Hertlet's Treaties*,” Vol. 17, p. 62.

places within the limits of that Order, of such Acts and enactments for the time being in force in British India as may be deemed necessary for the due administration of justice ;

Now, therefore, Her Majesty, by virtue and in exercise of the powers by the Foreign Jurisdiction Act, 1890,* or otherwise, in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

1. In this Order the expression “ foreigners to whom this Order applies ” means subjects of any of the Signatory Powers (except Her Majesty) or of any other Power which has consented that its subjects shall be justiciable under the Africa Order in Council, 1889,† and this Order.

Other expressions defined in the Africa Order in Council, 1889,† and used in this Order, have the same meaning.

2. Where Her Majesty has declared any territory or place within the limits of the Africa Order in Council, 1889,† to be a protectorate of Her Majesty, the provisions of that Order having reference to British subjects, except Part XIV. thereof, shall extend in like manner to foreigners to whom this Order applies, and all such foreigners shall be justiciable by the Courts constituted by the said Order for the protectorate, under the same conditions as British subjects, and to the extent of the jurisdiction vested by law in those Courts ; and Part XII. and so much of the rest of the Order as requires the consent of any foreigner as a condition of the exercise of jurisdiction shall be of no force or effect in the protectorate, so far as respects foreigners to whom this Order applies.

3. A Secretary of State may, from time to time, by Order published in such manner as he directs, declare that any Act or enactment for the time being in force in British India or any presidency thereof, and not inconsistent with the Africa Order in Council, 1889,† and this Order, shall have effect and be administered in relation to any place or places within the limits of any local jurisdiction with such modifications or adaptations as may be necessary, and thereupon such Acts or enactments, as so modified and adapted, shall have effect in accordance with such Order as if they had been applied by the said Order.

4. This Order may be cited as “ The Africa Order in Council, 1892.” The Africa Order in Council, 1889,† and this Order may together be cited as “ The Africa Orders in Council, 1889 † and 1892.”

And the Most Honourable the Marquis of Salisbury, K.G., and the Right Honourable Viscount Cross, G.C.B., two of Her Majesty’s Principal Secretaries of State, are to give the necessary directions herein, as to them may respectively appertain.

C. L. Peel.

* 53 & 54 Vict. c. 37.

† Printed at p. 1 above.

“THE AFRICA ORDER IN COUNCIL, 1893.”

At the Court at Windsor, the 17th day of July, 1893.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.
Lord Steward.Marquess of Ripon.
Sir Edmund Monson.

Whereas by treaty, grant, usage, sufferance, and other lawful means, Her Majesty the Queen has jurisdiction in the parts of Africa mentioned in the Africa Order in Council, 1889 : *

Now, therefore, Her Majesty, by virtue and in exercise of the powers in this behalf by the Foreign Jurisdiction Act, 1890,† or otherwise, in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

1. This Order may be cited as the Africa Order in Council, 1893, and shall be construed as one with the Africa Order in Council, 1889 * (herein referred to as the principal Order).

2. Natives of any Protectorate of Her Majesty which is outside any local jurisdiction constituted under the principal Order shall, when within that local jurisdiction, be deemed to be British-protected persons within the meaning of that Order.

3. The expression “treaty,” which is defined in Article 3 of the principal Order, shall be deemed to extend to any treaty, convention, or international agreement to which Her Majesty is or may hereafter be a party, whether any state, government, king, chief, people, or tribe having power or authority in any local jurisdiction constituted under the principal Order is or is not a party thereto.

C. L. Peel.

THE CONSULAR COURTS (ADMIRALTY) ORDER IN COUNCIL, 1894.

1894. No. 199.

At the Court at Osborne House, Isle of Wight, the 7th day of August, 1894.

PRESENT :

The Queen's Most Excellent Majesty.

His Royal Highness Prince Christian.

Lord President.
Lord Steward.
Earl Spencer.Lord Chamberlain.
Sir Henry Ponsonby.
Sir John Cowell.

Whereas by treaty, grant, usage, sufferance, and other lawful means, Her Majesty the Queen has jurisdiction in the countries and places named in the schedule to this Order :

* Printed at pp. 1–35 above. The Africa Orders have been withdrawn as to certain Protectorates, see footnote, p. 1.

† 53 & 54 Vict. c. 37.

And whereas by the Colonial Courts of Admiralty Act, 1890,* it is enacted that Her Majesty in Council may from time to time make Orders for the purposes authorised by that Act :

And whereas by the said Act Her Majesty in Council may by Order direct that that Act shall, subject to the conditions, exceptions, and qualifications (if any) contained in the Order, apply to any Court established by Her Majesty for the exercise of jurisdiction in any place out of Her Majesty's dominions which is named in the Order, as if that Court were a Colonial Court of Admiralty, and to provide for carrying into effect such application :

Now, therefore, Her Majesty, in exercise of the powers in this behalf by the Foreign Jurisdiction Act, 1890,† and the said recited Act in Her Majesty vested, is pleased by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

1. The following enactments of the Colonial Courts of Admiralty Act, 1890,* that is to say, section 2, sub-sections (2) to (4), section 5, section 6, and section 16, sub-section (3) shall apply to every Court which has been established by Her Majesty under any Order in Council relating respectively to the countries and places named in the schedule to this Order, and to which Vice-Admiralty jurisdiction has been assigned by Order in Council, as if such Court were in the said sections mentioned in lieu of a Colonial Court of Admiralty, and as if such countries and places respectively were referred to in the said sections in lieu of a British possession.

2. For the purposes of this Order the expressions "judgment" and "appeal" shall, in the enactments of the recited Act hereby applied, have the same respective meanings as are assigned thereto in section 15 of that Act.

3. This Order may be cited as "The Consular Courts (Admiralty) Order in Council, 1894."

And the Right Honourable the Earl of Kimberley, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

And whereas the immediate operation of this Order is urgent ; this Order shall come into operation forthwith.

C. L. Peel.

Schedule.

China ; ‡	Persian Coast ;
Corea ;	Siam ;
Japan ; §	Zanzibar ; and
<i>Ottoman Empire ; </i>	

places within the limits of any local jurisdiction constituted under "The Africa Order in Council, 1889." ¶

* 53 & 54 Vict. c. 27.

† 53 & 54 Vict. c. 37.

‡ Superseded as to Wei-hai-Wei by Article 85 of "The Wei-hai-Wei Order in Council, 1901," printed below.

§ See Order in Council repealing provisions as to the exercise of Her Majesty's jurisdiction in Japan, printed below.

|| Superseded as to the Ottoman Dominion by Article 106 of the Ottoman Order in Council, 1899, printed below.

¶ Printed at pp. 1-35 above.

THE AFRICA PROTECTORATE (CAPITAL SENTENCES) ORDER IN
COUNCIL, 1898.*

1898. No. 1067.

At the Court at Balmoral, the 20th day of October, 1898.

• PRESENT :

The Queen's Most Excellent Majesty.

Duke of Fife.

Earl of Kintore.

Lord George Hamilton.

Whereas by treaty, grant, usage, sufferance, and other lawful means, Her Majesty the Queen has power and jurisdiction in the parts of Africa mentioned in "The Africa Order in Council, 1889":†

Now, therefore, Her Majesty, by virtue, and in exercise of the powers by "The Foreign Jurisdiction Act, 1890,"‡ or otherwise in Her Majesty vested, is pleased by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. So much of Article 74 of "The Africa Order in Council, 1889," as requires that in every case of sentence of death the minutes of the trial shall be transmitted to a Secretary of State, and that the sentence shall not be carried into effect until confirmed by him, is hereby repealed as to every Protectorate of Her Majesty in Africa, and the following provisions shall be substituted, that is to say :

- (a.) In every case of sentence of death the Judicial Officer by whom it was pronounced shall send the minutes of the trial to the Commissioner for the Protectorate, appending thereto a certificate under his hand to the effect that, in his opinion, it is or is not desirable that the sentence should be reconsidered by a Secretary of State, and adding such other observations as he may think fit.
- (b.) The Commissioner, after considering the minutes and certificate and observations (if any) of the Judicial Officer, shall append thereto a certificate under his hand to the effect that, in his opinion, it is or is not desirable that the sentence should be reconsidered by a Secretary of State, and may add such further observations as he may think fit.
- (c.) If either the Judicial Officer or the Commissioner so certifies that it is so desirable the Commissioner shall transmit the minutes, certificates, and observations to the Secretary of State for consideration by him.
- (d.) If the Judicial Officer and the Commissioner both certify that it is not desirable that the sentence should be reconsidered by a Secretary of State, the Commissioner shall certify his confirmation of the sentence by writing under his hand.

* This Order was repealed as to the East Africa Protectorate by Article 28 of the East Africa Order in Council, 1902, printed at p. 76 below.

† Printed at pp. 1-35 above.

‡ 53 & 54 Vict. c. 37.

(e.) Such sentence of death shall not be carried into effect until so confirmed by the Commissioner or a Secretary of State, but upon such confirmation shall be carried into effect according to the provisions of "The Africa Order in Council, 1889."

2. In this Order "Commissioner" means the Commissioner and Consul-General or other principal officer for the time being administering the Government of a Protectorate.

3. This Order may be cited as "The Africa Protectorate (Capital Sentences) Order in Council, 1898."

A. W. FitzRoy.

(b) British Central Africa.

- i. *British Central Africa Protectorate*, p. 40.
- ii. *Barotziland—North-Western Rhodesia*, p. 52.
- iii. *North-Eastern Rhodesia*, p. 56.

(i) British Central Africa Protectorate.

THE BRITISH CENTRAL AFRICA ORDER IN COUNCIL, 1902.

1902. No. 663.

At the Court at Buckingham Palace, the 11th day of August, 1902.

PRESENT :

The King's Most Excellent Majesty in Council.

Whereas the territories of Africa situate within the limits of this Order are under the protection of His Majesty the King, and are known as the British Central Africa Protectorate :

And whereas by Treaty, grant, usage, sufferance, and other lawful means, His Majesty has power and jurisdiction within the said territories :

Now, therefore, His Majesty, by virtue and in exercise of the powers on this behalf by the Foreign Jurisdiction Act, 1890,* or otherwise, in His Majesty vested, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

Preliminary.

1. This Order may be cited as "The British Central Africa Order in Council, 1902."

The limits of this Order are the territories of Africa situate to the west and south of Lake Nyassa, and bounded by North-Eastern Rhodesia, German East Africa and the Portuguese territories.

* 53 & 54 Vict. c. 37.

The said territories are in this Order referred to as "British Central Africa" and "the Protectorate."

If His Majesty is pleased to direct that any other territories, for the time being under the protection of His Majesty, shall form part of the Protectorate, those territories shall, from and after a date to be fixed by an order of the Secretary of State, be deemed to be within the limits of this Order. In like manner, if His Majesty is pleased to direct that any territories for the time being forming part of the Protectorate shall cease to form part thereof, those territories shall, from and after a date to be fixed by an Order of the Secretary of State, cease to be within the limits of this Order.

2. In this Order—

"Secretary of State" means one of His Majesty's Principal Secretaries of State ;

"Crown Lands" means all public lands in the Protectorate which are subject to the control of His Majesty by virtue of any Treaty, Convention, or Agreement, or of His Majesty's Protectorate, and all lands which shall have been acquired by His Majesty for the public service or otherwise howsoever ;

"Gazette" means the Gazette of the Protectorate ;

"Person" includes Corporation ;

Words importing the plural or the singular may be construed as referring to one person or thing, or to more than one person or thing, and words importing the masculine as referring to females (as the case may require).

3.—(1.) Where this Order or any Ordinance confers a power or imposes a duty, then, unless a contrary intention appears, the power may be exercised and the duty shall be performed from time to time as occasion requires.

(2.) Where this Order or any Ordinance confers a power or imposes a duty on the holder of an office, then, unless a contrary intention appears, the power may be exercised and the duty shall be performed by the holder of the office for the time being, or by a person duly appointed to act for him.

(3.) Where this Order or any Ordinance confers a power to make rules, regulations, or orders, then, unless a contrary intention appears, the power shall be construed as including a power, exercisable in the like manner and subject to the like approval and conditions (if any) to rescind, revoke, amend, or vary the rules, regulations, or orders.

(4.) Expressions defined in this Order shall have the same respective meanings in any Ordinances, rules, or regulations made under this Order, unless a contrary intention appears.

Administration.

4.—(1.) His Majesty may by Commission under His Sign Manual and Signet appoint a fit person to administer the Government of British Central Africa, under the designation of Commissioner or such other designation as His Majesty thinks fit,

and the person so appointed is hereinafter referred to as the Commissioner.

(2.) In the event of the death, incapacity, removal, or absence from the Protectorate of the Commissioner for the time being all and every the powers and authorities by this Order granted to him shall, until His Majesty's further pleasure is signified through the Secretary of State, be vested in the Deputy Commissioner or other principal officer of the Protectorate Government for the time being in the Protectorate.

(3.) The Commissioner shall administer the Government of the Protectorate in the name and on behalf of His Majesty, and shall do and execute in due manner all things that shall belong to his said command and to the trust thereby reposed in him, according to the several powers and authorities granted or appointed to him by virtue of this Order and of his Commission, and according to such instructions as may from time to time be given to him under His Majesty's Sign Manual and Signet, or by Order of His Majesty in Council, or by His Majesty through a Secretary of State, and according to such laws as are or shall hereafter be in force in the Protectorate.

5. The Commissioner shall have an official seal, bearing the style of his office, and such device as a Secretary of State from time to time approves, and such seal shall be deemed the public seal of British Central Africa, and may be kept and used by the Commissioner for the sealing of all things whatsoever that shall pass the public seal. And, until a public seal shall be provided, the seal of the Commissioner may be used as the public seal.

6.—(1.) The Commissioner may, with the approval of the Secretary of State, by Proclamation, define any boundaries of the territories for the time being within the limits of this Order, and divide those territories into provinces or districts in such manner and with such subdivisions as may be convenient for purposes of administration, describing the boundaries thereof and assigning names thereto.

(2.) If a question arises whether any place is or is not within the Protectorate, or within any province, and such question does not appear to be determined by any such Proclamation, or other evidence, it shall be referred to the Commissioner, and a certificate under his hand and seal shall be conclusive on the question, and judicial notice shall be taken thereof.

7.—(1.) All rights of His Majesty in or in relation to any Crown lands shall vest in and may be exercised by the Commissioner for the time being in trust for His Majesty, or if the Secretary of State at any time with respect to all or any such lands by order under his hand so directs, in such other trustee or trustees for His Majesty as the Secretary of State may appoint.

(2.) The Secretary of State may, when he thinks fit, by a like order remove any trustee so appointed, and may appoint any new or additional trustee or trustees.

(3.) The Commissioner, or such other trustee or trustees, may make grants or leases of any Crown lands, or may permit them

to be temporarily occupied, on such terms and conditions as he or they may think fit, subject to the provisions of any Ordinance.

(4.) All mines and minerals being in, under, or upon any lands in the occupation of any native tribe, or any members thereof, or of any person not possessed of the right to work such mines and minerals, shall vest in the Commissioner, or such trustee or trustees, in like manner as the mines and minerals being in, under, or upon any Crown lands.

8. The Commissioner may, as he shall see occasion, in His Majesty's name and on his behalf, grant to any offender convicted of any offence in any Court in the Protectorate, a free and unconditional pardon, or a pardon subject to such conditions as may be lawfully thereunto annexed, or remit or commute any sentence in whole or in part.

9. The Commissioner may, as he shall see occasion, in His Majesty's name and on his behalf, remit any fines, penalties, or forfeitures which may accrue or become payable to His Majesty.

10.—(1.) A Secretary of State, or the Commissioner, subject to the directions of a Secretary of State, may, on behalf of His Majesty, appoint, or authorise the appointment of, such public officers for the administration of the Protectorate, under such designations as he may think fit, and may prescribe their duties.

(2.) The Commissioner may, upon sufficient cause to him appearing, suspend from the exercise of his office any such public officer, which suspension shall continue and have effect only until His Majesty's pleasure therein shall be made known and signified to the Commissioner.

(3.) Subject to the provisions of any Ordinance, the Commissioner may appoint, or authorise Heads of Departments to appoint, such clerks and other subordinate officers as may be required; and unless other provision is made, all subordinate officers shall be removable by the respective officers by whom they were appointed.

11. All Ordinances, Proclamations, Regulations, Rules, or other public notifications shall be published in the Gazette, and also in such other manner, if any, as the Commissioner may direct in the case of any particular notification.

Legislation.

12.—(1.) The Commissioner may make Ordinances for the administration of justice, the raising of revenue, and generally for the peace, order, and good government of all persons in British Central Africa.

(2.) The Commissioner shall observe any general or special instructions of the Secretary of State with respect to the previous submission to the Secretary of State of draft Ordinances, to the making of Ordinances for particular purposes, to the amendment of Ordinances or draft Ordinances, and to other matters in relation thereto; but nothing in this provision shall affect the validity of any Ordinance.

(3.) In making Ordinances, the Commissioner shall respect existing native laws and customs except so far as the same may be opposed to justice or morality.

(4.) The Commissioner shall sign every Ordinance made by him, and shall at the first available opportunity transmit an authenticated copy thereof to the Secretary of State.

(5.) The Secretary of State may disallow any Ordinance, wholly or in part, and upon such disallowance being publicly notified in the Gazette, the provisions so disallowed shall thereupon cease to have effect, but without prejudice to anything lawfully done or suffered thereunder.

(6.) The Ordinances of each year shall be numbered consecutively, and each may be cited by its number and year, or by its short title, if any.

(7.) Where a date for the commencement of an Ordinance is not fixed in the Ordinance, it shall come into force on the day on which it is promulgated by the Commissioner.

(8.) An Ordinance may apply to the Protectorate any Act or law of the United Kingdom, or of any legislature of India, or of any Colony, subject to any exceptions and modifications.

(9.) The Commissioner shall, at the first available opportunity after any rules or regulations are made under the provisions of any Ordinance, transmit an authenticated copy thereof to the Secretary of State.

(10.) An Ordinance shall not be repealable by any rules or regulations made under an Ordinance.

(11.) An Ordinance varying or affecting any Order in Council relating to the Protectorate, which is not repealed by this Order, shall not come into force unless it has been previously approved by the Secretary of State, and such approval shall be recited therein.

Application of Law.

13. The enactments described in the First Schedule to The Foreign Jurisdiction Act, 1890,* shall apply to British Central Africa as if it were a British Colony or possession, but subject to the provisions of this Order and to the exceptions, adaptations, and modifications following, that is to say:—

- (i.) The Commissioner is hereby substituted for the Governor of a Colony or British possession and the High Court is hereby substituted for a Superior Court or Supreme Court, and for a Magistrate or Justice of the Peace of a Colony or British possession.
- (ii.) For the portions of the Merchant Shipping Acts, 1854 † and 1867, ‡ referred to in the said Schedule, shall be substituted Part XIII. of The Merchant Shipping Act, 1894. §
- (iii.) In section 51 of The Conveyancing (Scotland) Act, 1874, || and any enactment for the time being in force

* 53 & 54 Vict. c. 37.

† 30 & 31 Vict. c. 124.

‡ 17 & 18 Vict. c. 120.

§ 57 & 58 Vict. c. 60.

|| 37 & 38 Vict. c. 94.

amending the same, the High Court is substituted for a Court of Probate in a Colony.

(iv.) With respect to The Fugitive Offenders Act, 1881,*

(a.) So much of the 4th and 5th sections of the said Act as relates to sending a report of the issue of a warrant, together with the information, or a copy thereof, or to the sending of a certificate of committal and report of a case, or to the information to be given by a Magistrate to a fugitive, shall be excepted, and in lieu of such information the person acting as the Magistrate shall inform the fugitive that in the British possession or Protectorate to which he may be conveyed he has the right to apply for a writ of *habeas corpus* or other like process.

(b.) So much of the 6th section of the said Act as requires the expiration of fifteen days before issue of warrant shall be excepted.

(c.) The Commissioner shall not be bound to return a fugitive offender to a British possession unless satisfied that the proceedings to obtain his return are taken with the consent of the Governor of that possession.

(d.) For the purposes of Part II. of the said Act, Uganda, Zanzibar, the East Africa Protectorate, and all British possessions and Protectorates in Africa south of the Equator shall be deemed to be one group of British possessions.

14. Where, under The Merchant Shipping Act, 1894, or any amending Act, anything is authorised to be done by, to, or before a British Consular officer, such thing may be done in any place in the Protectorate at which there is no Consular officer by such officer of the Protectorate Government as the Commissioner may appoint.

Courts of Justice.

15.—(1.) There shall be a Court of Record styled “His Majesty’s High Court of British Central Africa” (in this Order referred to as the High Court) with full jurisdiction, civil and criminal, over all persons and over all matters in the Protectorate.

(2.) Such civil and criminal jurisdiction shall, so far as circumstances admit, be exercised in conformity with the substance of the law for the time being in force in England, and with the powers vested in and according to the procedure and practice observed by and before Courts of Justice and Justices of the Peace in England according to their respective jurisdictions and authorities, except so far as may be otherwise provided by law.

(3.) The High Court shall sit at such place or places as the Commissioner may appoint.

(4.) The High Court shall have a seal bearing the style of the Court and a device approved by the Secretary of State; but until

* 44 & 45 Vict. c. 69.

such a seal is provided, a stamp bearing the words "High Court of British Central Africa" may be used instead thereof.

16.—(1.) The High Court shall be a Court of Admiralty, and shall exercise Admiralty jurisdiction in all matters arising upon any lake or other navigable inland waters or otherwise relating to ships and shipping.

(2.) The following enactments of The Colonial Courts of Admiralty Act, 1890,* that is to say, section 2, sub-sections (2) to (4), sections 5 and 6, section 16, sub-section (3), shall apply to the High Court as if in the said sections the said Court were mentioned in lieu of a Colonial Court of Admiralty, and the Protectorate were referred to in lieu of a British possession.

(3.) Admiralty jurisdiction may be conferred by Ordinance on any Court subordinate to the High Court.

(4.) Any Ordinance varying or affecting the Admiralty jurisdiction of any Court or conferring Admiralty jurisdiction on any Court shall not come into force unless it has been previously approved by the Secretary of State, and such approval shall be recited therein.

17.—(1.) There shall be as many judges of the High Court as may from time to time be required.

(2.) Every judge shall be appointed by His Majesty and shall hold office during pleasure.

(3.) When there are more judges than one, the principal judge shall have such distinguishing title as the Secretary of State may approve.

(4.) In any case of death, illness, or absence, or in any other emergency, the Commissioner may appoint an acting judge.

18.—(1.) Courts subordinate to the High Court and Courts of special jurisdiction may be constituted by or under the provisions of any Ordinance as occasion requires.

(2.) Provision may be made by Ordinance for the hearing and determining of appeals from any such Court by the High Court or otherwise.

19. Article 10 of this Order shall apply to the appointment of all judges and magistrates (other than judges of the High Court), and to registrars and other principal officers of the High Court, in like manner as it applies to public officers; and the provisions of that Article relating to clerks and subordinate officers shall apply to all Courts.

20. In all cases, civil and criminal, to which natives are parties, every Court (a) shall be guided by native law so far as it is applicable and is not repugnant to justice and morality or inconsistent with any Order in Council or Ordinance, or any Regulation or Rule made under any Order in Council or Ordinance; and (b) shall decide all such cases according to substantial justice without undue regard to technicalities of procedure and without undue delay.

21. If any sentence of death is pronounced by the High Court,

* 53 & 54 Vict. c. 27.

a copy of the evidence shall be transmitted to the Commissioner, and the sentence shall not be carried into effect until confirmed by him.

22. Subject to the provisions of any Ordinance, the High Court may, with the approval of the Commissioner, make rules for regulating the practice and procedure of the High Court and of all other Courts which may be established in the Protectorate.

The power to make rules under this Article shall include (a) a power to fix fees and scales of remuneration, and (b) a power to regulate the conditions on which persons may be admitted to practise as advocates or solicitors in the Courts of the Protectorate.

At the first available opportunity after any such rules are made, the Commissioner shall transmit an authenticated copy thereof to the Secretary of State.

23.—(1.) A Court under this Order shall not exercise any jurisdiction in any proceeding whatsoever over the Commissioner or his official or other residences, or his official or other property.

(2.) This Article shall not operate in bar of any proceeding against the Commissioner in his official capacity, where it is sought to establish any liability of the Government of the Protectorate.

Removal and Deportation.

24. Where an offender convicted before any Court is sentenced to imprisonment, and the Commissioner, proceeding under section 7 of the Foreign Jurisdiction Act, 1890, authority in that behalf being hereby given to him, considers it expedient that the sentence should be carried into effect outside of the Protectorate, he may order the offender to be removed to a place in some part of His Majesty's dominions out of the United Kingdom, the Government whereof consents that offenders may be sent thither under this Article.

25.—(1.) Where it is shown by evidence on oath, to the satisfaction of the Commissioner, that any person is conducting himself so as to be dangerous to peace and good order in British Central Africa, or is endeavouring to excite enmity between the people of the Protectorate and His Majesty, or is intriguing against His Majesty's power and authority in the Protectorate, the Commissioner may, if he thinks fit, by writing under his hand and official seal, order that person to be deported from the Protectorate to such place as the Commissioner may direct.

(2.) The place shall be a place in some part (if any) of His Majesty's dominions to which the person belongs, or the Government of which consents to the reception of persons deported under this Order, or to some place under the protection of His Majesty.

(3.) An appeal shall not lie against an Order of deportation made under this Article.

(4.) If any person deported under this Order returns to the Protectorate without the permission in writing of the Secretary of State (which permission the Secretary of State may give), he shall be deemed guilty of an offence and liable on conviction to

imprisonment for any period not exceeding three months with or without a fine not exceeding fifty pounds; and he shall also be liable to be forthwith again deported

(5.) The Commissioner, by order under his hand and official seal, may vary or rescind any order of deportation under this Article.

(6.) The Commissioner shall forthwith report to the Secretary of State every order made by him under this Article, and the grounds thereof, and the proceedings thereunder.

26.—(1.) Where, under this Order, a person is to be removed or deported from the Protectorate, he shall, by warrant of the Commissioner under his hand and seal, be detained, if necessary, in custody or in prison, until a fit opportunity for his removal or deportation occurs, and then, if he is to be deported beyond sea, be put on board one of His Majesty's vessels of war, or, if none is available, then on board some other British or other fit vessel.

(2.) The warrant of the Commissioner shall be sufficient authority to the person to whom it is directed or delivered for execution and to the Commander or master of the vessel to receive and detain the person therein named, in the manner therein prescribed, and to remove and carry him to the place therein named, according to the warrant.

(3.) In case of removal for any purpose other than deportation, the warrant of the Commissioner shall be issued in duplicate, and the person executing it shall, as soon as practicable after his arrival at the place therein named, deliver, according to the warrant, with one of the duplicates of the warrant, to a constable, or proper officer of police or keeper of a prison, or other proper authority or person there, the person named in the warrant, to be produced on the order of the proper Court or authority there, or to be otherwise dealt with according to law.

27. Subject to the other provisions of this Order, all expenses of removal of prisoners and others, and the expenses of deportation, and of the sending of any person to any part of His Majesty's dominions or Protectorates, including expenses of maintenance, shall be defrayed in such manner as the Secretary of State directs.

Supplementary.

28. On the commencement of this Order, the following Orders in Council, in this Order referred to as the Africa Orders, shall cease to apply to British Central Africa, that is to say:—

The Africa Order in Council, 1889.*

The Africa Order in Council, 1892.†

The Africa Order in Council, 1893.‡

The Africa (Acquisition of Lands) Order in Council, 1898,§
and

The Africa Protectorate (Capital Sentences) Order in Council, 1898.||

* Printed at pp. 1-35 above respectively.

† Printed at p. 35 above.

‡ Printed at p. 37 above.

§ Printed in Statutory Rules and Orders, 1898, p. 382.

|| Printed at p. 39 above.

Provided as follows :—

- (1.) Where other provision is not made by Ordinance, any law, practice, or procedure established by or under the Africa Orders shall remain in force until such other provision is made.
- (2.) Every appointment of a Judge or other officer, and every Court established and existing at the commencement of this Order shall, until other provision is made, continue to be as if this Order had not been passed.
- (3.) All legal proceedings begun under the Africa Orders and pending at the commencement of this Order shall be continued as if this Order had not been passed.
- (4.) All regulations and rules made under the Africa Orders shall remain in force until otherwise provided by Ordinance.

29. This Order shall commence and have effect as follows :—

- (1.) As to the making of any warrant or appointment, the framing of Ordinances and Rules of Procedure, the issue of instructions, and as to any other provisions necessary for bringing this Order into effect immediately from and after the date of this Order.
- (2.) As to all other matters and provisions comprised and contained in this Order, immediately after this Order is first published in the Gazette,* and the time of such publication shall be deemed to be the time of the commencement of this Order.

And the Most Honourable the Marquess of Lansdowne, K.G., one of His Majesty's Principal Secretaries of State, is to give the necessary directions herein.

A. W. FitzRoy.

THE EASTERN AFRICAN PROTECTORATES (COURT OF APPEAL)
ORDER IN COUNCIL, 1902.

1902. No. 664.

At the Court at Buckingham Palace, the 11th day of
August, 1902.

PRESENT :

The King's Most Excellent Majesty in Council.

Whereas by Treaty, grant, usage, sufferance, and other lawful means His Majesty has power and jurisdiction within the territories of Africa known as the East Africa, Uganda, and British Central Africa Protectorates (in this Order referred to as "the said Protectorates") :

And whereas it is expedient that a Court should be established

* This Order was published in the Gazette of the Protectorates, October 31, 1902.

for the hearing and determining of appeals from His Majesty's Courts in the said Protectorates :

Now, therefore, His Majesty, by virtue and in exercise of the powers in this behalf by "The Foreign Jurisdiction Act, 1890,"* or otherwise in His Majesty vested, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. This Order may be cited as "Eastern African Protectorates (Court of Appeal) Order in Council, 1902."

2. A Court shall be constituted called His Britannic Majesty's Court of Appeal for Eastern Africa (in this Order referred to as "the Court of Appeal"), which shall exercise such appellate jurisdiction and such other powers in relation to the High Courts and other Courts in the said Protectorates as may from time to time be conferred by Ordinances passed under the provisions of the Orders in Council relating to the said Protectorates respectively.

3. The members of the Court of Appeal shall be the Judge or Judges for the time being of His Majesty's Court for Zanzibar, and the Judge or Judges for the time being of the High Courts of the said Protectorates respectively, and such other competent person or persons, if any, each being a member of the Bar of England, Scotland, or Ireland, of not less than five years' standing, as the Secretary of State may from time to time appoint.

4. The precedence of the Judges of the Court of Appeal shall be determined according to instructions to be given from time to time by the Secretary of State.

5. For the hearing and determining of appeals, three Judges of the Court of Appeal shall sit together ; but provision may be made by Rules of Court for the hearing of any specified classes of cases by less than three Judges.

6. The Court of Appeal may sit at such places in Zanzibar, or in any of the said Protectorates as may be fixed by Rules of Court.

7. The Secretary of State may appoint a Registrar and such other officers of the Court of Appeal as may be necessary.

8.—(1.) The Court of Appeal may make Rules of Court with respect to all matters of procedure relating to the exercise of its jurisdiction.

(2.) Rules of Court when allowed by the Secretary of State shall have effect as if contained in this Order : Provided that in case of urgency declared in the Rules, the same shall take effect before such allowance, and shall continue to have effect unless and until they are modified or altered by the Secretary of State, and are published by the Court of Appeal as so modified or altered.

9.—(1.) When a final judgment or order of the Court of Appeal made in a civil action involves the amount or value of 10,000

* 53 & 54 Vict. c. 37.

rupees or upwards any party aggrieved thereby may, within such time as may be prescribed by Rules of Court, or if no time is prescribed, within three months after the same is made or given, apply by petition to the Court of Appeal for leave to appeal to His Majesty the King in Council.

(2.) The applicant shall give security to the satisfaction of the Court of Appeal to an amount not exceeding the amount or value of 5000 rupees for prosecution of the appeal, and for such costs in the event of the dismissal of the appeal for want of prosecution as the Court of Appeal may award, and for payment of all such costs as may be awarded to any respondent by His Majesty in Council, or by the Lords of the Judicial Committee of His Majesty's Privy Council.

(3.) He shall also pay into the Court of Appeal a sum estimated by that Court to be the amount of the expense of the making up and transmission to England of the transcript of the record.

(4.) If security and payment are so given and made within such time as may be prescribed by Rules of Court, then, and not otherwise, the Court of Appeal shall give leave to appeal, and the appellant shall be at liberty to prefer and prosecute his appeal to His Majesty in Council according to the Rules for the time being in force respecting appeals to His Majesty in Council from his Colonies, or such other Rules as His Majesty in Council from time to time thinks fit to make concerning appeals from the Court of Appeal.

(5.) In any case the Court of Appeal, if it considers it just or expedient to do so, may give leave to appeal on the terms and in the manner aforesaid.

10.—(1.) Where leave to appeal to His Majesty in Council is applied for by a person ordered to pay money or do any other act, the Court of Appeal shall direct either that the order appealed from be carried into execution, or that the execution thereof be suspended pending the appeal, as the Court thinks just.

(2.) If the Court of Appeal directs the order to be carried into execution, the person in whose favour it is made shall, before the execution of it, give security to the satisfaction of the Court for performance of such Order as His Majesty in Council may think fit to make.

(3.) If the Court of Appeal directs the execution of the order to be suspended, the party against whom it is given shall, before an order for suspension is made, give security to the satisfaction of the Court for performance of such Order as His Majesty in Council may think fit to make.

11. This Order shall not affect the right of His Majesty at any time, on the humble petition of any person aggrieved by a decision of the Court of Appeal, to admit his appeal on such terms and in such manner as His Majesty in Council may think fit, and to deal with the decision appealed from in such manner as may be just.

And the most Honourable the Marquess of Lansdowne, K.G., one of His Majesty's Principal Secretaries of State, is to give the necessary directions herein.

A. W. FitzRoy.

(ii) **Barotziland—North-Western Rhodesia.**

THE BAROTZILAND—NORTH-WESTERN RHODESIA ORDER IN COUNCIL, 1899, AS AMENDED BY THE BAROTZILAND—NORTH-WESTERN RHODESIA ORDER IN COUNCIL, 1902. DATED DECEMBER 16, 1902.*

1901, No. 567, *as amended by* 1902, No. 918.

At the Court at Windsor, the 28th day of November, 1899.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.

Lord Chamberlain.

Earl of Kintore.

Whereas the territories of Africa situated within the limits of this Order, as hereinafter described, are under the protection of Her Majesty the Queen :

And whereas by treaty, grant, usage, sufferance, and other lawful means, Her Majesty has power and jurisdiction in the said territories :

Now, therefore, Her Majesty, by virtue and in exercise of the powers by the Foreign Jurisdiction Act, 1890,† or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

1. This Order may be cited as the Barotziland—North-Western Rhodesia Order in Council, 1899.

2. In this Order, unless the subject or context otherwise requires :—

“ Her Majesty ” includes Her Majesty Her heirs and successors.

“ Secretary of State ” means one of Her Majesty's principal Secretaries of State.

“ High Commissioner ” means Her Majesty's High Commissioner for the time being for South Africa.

“ The Company ” means the British South Africa Company.

“ Charter ” means Her Majesty's Charter of the 29th day of October, 1889,‡ incorporating the Company (as amended by any supplemental Charter).

“ Administrator ” means an Administrator appointed under this Order to administer affairs within the limits of this Order, or within any parts of such limits, and includes an Acting Administrator.

“ Gazette ” § means the official Gazette of the High Commissioner for South Africa.

“ Native ” means any person not of European or American descent who is a native of Africa.

* This amending Order in Council is printed at length in Statutory Rules and Orders, 1902, p. 133.

† 53 & 54 Vict. c. 37.

‡ Printed as Parliamentary Paper, 1898 [c. 8773].

§ This definition of “ Gazette ” was substituted for the previous definition by the Order of 1902.

“ Person ” includes corporation.

The plural includes the singular, and the singular the plural, and the masculine the feminine.

3. The limits of this Order are the parts of Africa bounded by the River Zambesi, the German South-West African Protectorate, the Portuguese possessions, the Congo Free State, and the Kafukwe or Loengi River. Such limits further include so much of any territory belonging to the Bashukolumbwe tribe as may lie east of the Kafukwe or Loengi River. The territory within the limits of this Order shall be known as Barotziland—North-Western Rhodesia.

4. (1.) A Secretary of State may from time to time by notice published in the Gazette, and in the “London Gazette,” declare that any parts of Africa north of the River Zambezi, and under the protection of Her Majesty, shall be included within the limits of this Order, and from the date of such publication in the Gazette this Order shall apply to the parts named therein.

(2.) A Secretary of State may from time to time by the like notice declare that any part of Africa for the time being within the limits of this Order shall, until otherwise directed, be excepted from the application of this Order; and from the date of the publication of such notice in the Gazette, the part named therein shall be excluded from the limits of this Order.

5. The High Commissioner may on Her Majesty's behalf exercise all powers and jurisdiction which Her Majesty, at any time before or after the date of this Order, had or may have within the limits of this Order, and to that end may take or cause to be taken all such measures, and may do or cause to be done all such matters and things within the limits of this Order as are lawful, and as in the interest of Her Majesty's Service he may think expedient, subject to such instructions as he may from time to time receive from Her Majesty or through a Secretary of State.

6. The High Commissioner may appoint an Administrator for Barotziland—North-Western Rhodesia, and so many Judges, Magistrates, or other officers as he may from time to time think necessary for the administration of the affairs of Barotziland—North-Western Rhodesia, and may define from time to time the districts within which such officers shall respectively discharge their functions.

Every such Administrator or other officer may exercise such powers and authorities as the High Commissioner may assign to him, subject nevertheless to such directions and instructions as the High Commissioner may from time to time think fit to give him. The appointment of such officer shall not abridge, alter, or affect the right of the High Commissioner to execute and discharge all the powers and authorities hereby conferred upon him.

The High Commissioner may either, of his own motion or at the request of the Company, suspend or remove any Administrator or other officer so appointed.

7. Whenever the appointment of an Administrator, Judge, Magistrate or other officer is necessary the Company shall nominate to the High Commissioner a fit and proper person for the office. If the High Commissioner does not approve of such person he shall so inform the Company, and the Company shall thereupon nominate another person and so on as often as occasion shall require, but if the Company has not within six months from the date of the occurrence of a vacancy or in the case of a new office from the time when the High Commissioner shall have notified to the Company his intention to appoint a person to such office nominated some person whom the High Commissioner approves the High Commissioner may appoint a person who has not been so nominated.

8. In the exercise of the powers and authorities hereby conferred upon him, the High Commissioner may, amongst other things, from time to time by Proclamation provide for the Administration of Justice, the raising of Revenue by the imposition of taxes (which may include a tax in respect of the occupation of native huts) and Customs duties or otherwise, and generally for the peace, order, and good government of all persons within the limits of this Order, including the prohibition and punishment of acts tending to disturb the public peace.

Provided that the High Commissioner before issuing any such Proclamation shall, whenever possible, have regard to any suggestions or requests made to him in respect thereof by the British South African Company.

Provided further that no Proclamation concerning the raising or appropriation of revenue shall be made unless the assent of the Company has previously been given thereto. Such assent may be signified by telegraph.

9. The High Commissioner in issuing such proclamations shall respect any native laws or customs by which the civil relations of any native chiefs, tribes, or populations under Her Majesty's protection are now regulated, except so far as the same may be incompatible with the due exercise of Her Majesty's power and jurisdiction.

10. Every Proclamation of the High Commissioner shall be published in the Gazette, and shall, from and after a date to be mentioned in such Proclamation, and thereafter until disallowed by Her Majesty or repealed or modified by any subsequent Proclamation, have effect as if contained in this Order.

11. Her Majesty may disallow any such proclamation wholly or in part, and may signify such disallowance through a Secretary of State, and upon such disallowance being publicly notified by the High Commissioner in the Gazette the provisions so disallowed shall from and after a date to be mentioned in such notification, cease to have effect, but without prejudice to anything theretofore lawfully done thereunder.

12. Subject to any Proclamation made under this Order any jurisdiction exercisable otherwise than under this Order, whether

by virtue of any Statute or Order in Council, or of any Treaty, or otherwise, and whether exercisable by Her Majesty, or by any person on Her behalf, or by any Colonial or other Court, or under any Commission, or under any Charter granted by Her Majesty, shall remain in full force.

13. Such estimates of the expenses of the administration of Barotziland—North-Western Rhodesia as may from time to time be necessary shall be submitted to the Company for approval and, after the approval of any such estimates by the Company, if in any year the revenue raised and in pursuance of the provisions of this Order shall be insufficient to provide for the payment of the expenses of the administration, the Company shall make good the deficiency, and if in any year the said revenue is more than sufficient to provide for the payment of the said expenses, the surplus remaining after the payment of such expenses shall be paid to and become the property of the Company.

14. The Administrator shall be accountable to the Company for all revenue raised in pursuance of the provisions of this Order, and for all expenditure for the purposes of the administration of Barotziland—North-Western Rhodesia, in such manner and subject to such instructions or rules as may from time to time be prescribed by the High Commissioner at the request of the Company.

15. No Customs duties levied on any articles produced or manufactured in any part of Her Majesty's dominions or in any British Protectorate, and imported into Barotziland—North-Western Rhodesia, shall exceed in amount the duties levied on such articles according to the tariff in force in the South African Customs Union, at the date of the coming into operation of the Southern Rhodesia Order in Council, 1898,* or the tariff contained in the Customs Union Convention, concluded between the Colony of the Cape of Good Hope, the Orange Free State, and the Colony of Natal, in May 1898,† whichever are the higher.

16. Subject to the provisions of this Order and of any other Order in Council for the time being in force, and to the provisions of any Proclamation made under the provisions of any such Order as aforesaid, so much of the law of England for the time being, as is applicable to local circumstances, shall apply to and be in force within Barotziland—North-Western Rhodesia, subject to such qualifications as local circumstances render necessary.

17. Judicial notice shall be taken of this Order and of the commencement thereof, and of any Proclamation made under this Order and published in the Gazette.

18. This Order shall be published in the Gazette, and shall thereupon commence and come into operation ;‡ and the High

* Printed at p. 115 below.

† This convention was published in the Natal Government Gazette of May 20, 1898—Government Notice, No. 306, 1898.

‡ This Order was published in the Cape of Good Hope Government Gazette Extraordinary (No. 8267a) of September 15, 1900.

Commissioner shall give directions for the publication of this Order, at such places, and in such manner, and for such time or times, as he thinks proper for giving due publicity thereto.

19. Her Majesty may from time to time revoke, alter, add to, or amend this Order.

A. W. FitzRoy.

(iii) North-Eastern Rhodesia.

THE NORTH-EASTERN RHODESIA ORDER IN COUNCIL, 1900.

1900. No. 89.

At the Court at Osborne House, Isle of Wight, the 29th day of January, 1900.

PRESENT:

The Queen's Most Excellent Majesty.

Lord President.
Marquess of Lorne.

Lord Chamberlain.
Sir Fleetwood Edwards.

Whereas the territories of Africa situated within the limits of this Order, as hereinafter described, are under the protection of Her Majesty the Queen;

And whereas by Treaty, grant, usage, sufferance, and other lawful means, Her Majesty has power and jurisdiction in the said territories;

Now, therefore, Her Majesty, by virtue and in exercise of the powers by "The Foreign Jurisdiction Act, 1890,"* or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as "The North-Eastern Rhodesia Order in Council, 1900."

2. This Order is divided into parts, as follows:—

Parts.		Articles.
I.	Interpretation and Application	3- 6
II.	Administration and Legislation	7-19
III.	Police	20
IV.	Judicial	21-37
V.	Native Administration	38-48
VI.	Miscellaneous	49-51

PART I.—INTERPRETATION AND APPLICATION.

3. In this Order unless the subject or context otherwise requires:—
"Her Majesty" includes Her Majesty's heirs and successors.

* 53 & 54 Vict. c. 37.

"Secretary of State" means one of Her Majesty's Principal Secretaries of State.

"Commissioner" means any person for the time being exercising the jurisdiction of Her Majesty's Consul-General and Commissioner for the British Central Africa Protectorate.

"The Company" means the British South Africa Company.

"Charter" means Her Majesty's Charter of the 29th day of October, 1889,* incorporating the Company as amended by any Supplemental Charter.

"High Court" means the High Court of North-Eastern Rhodesia constituted by this Order.

"Senior Judge" means the Senior or sole Judge of the High Court, and includes a person acting as senior or sole Judge.

"Administrator" means an Administrator appointed under this Order to administer affairs within the limits of this Order, and includes an Acting Administrator.

"Magistrate" means a Magistrate or Assistant Magistrate appointed under this Order, and includes an Acting Magistrate or Acting Assistant Magistrate.

"Gazette" means any official Gazette published within the limits of this Order, by Authority of the Administrator, and until such Gazette is instituted means the "British Central Africa Government Gazette."

"Native" means any native of Africa, not being of European or American race or parentage.

"Person" includes Corporation.

The plural includes the singular, the singular the plural, and the masculine the feminine.

"Military police forces" includes all military, Volunteer, and police forces from time to time raised and constituted under Queen's Regulations, and therein appointed to be under the control or authority of the Commissioner.

4. The limits of this Order are the parts of Africa bounded on the west by the boundaries of the Congo Free State and of Barotziland—North-Western Rhodesia, as defined in "The Barotziland—North-Western Rhodesia Order in Council, 1899";† on the south by the Kafukwe River and the River Zambezi down to its junction with the Luangwa River; thence by the mid-channel of the Luangwa River northwards to where it is cut by the 15th degree of latitude, and from this point by the Anglo-Portuguese boundary eastwards to the frontier of the British Central Africa Protectorate: on the east by the aforesaid frontier: on the north by the Anglo-German frontier, the south shore of Lake Tanganyika, and the southern frontier of the Congo Free State as far west as Lake Mweru, including the island of Kilwa in the British sphere.

The territory for the time being within the limits of this Order shall be known as North-Eastern Rhodesia.

5. A Secretary of State may from time to time, by notice published in the "Gazette" and in the "London Gazette," declare

* Printed as Parliamentary Paper, 1888 [c. 8773].

† Printed at pp. 52-58 above.

that any parts of Africa north of the River Zambezi, and under the protection of Her Majesty, shall be included in the limits of this Order, and from the date of the publications of the Notice in the "Gazette" this Order shall apply to the parts named therein. A Secretary of State may from time to time, by the like notice, declare that any part of Africa for the time being within the limits of this Order shall, until otherwise directed, be excepted from the application of this Order; and from the date of the publication of such notice the part named therein shall be excluded from the limits of this Order.

6. The powers and authorities conferred by Her Majesty's "Africa Order in Council, 1889,"* shall continue in force within the limits of this Order concurrently with the powers conferred upon the Company by this Order, so far as not inconsistent with this Order, and where there is any conflict, this Order shall prevail. The powers conferred upon the Company by this Order are in augmentation of the powers conferred upon it by the Charter.

PART II.—ADMINISTRATION AND LEGISLATION.

7. The Company shall have and may exercise the general administration of affairs within the limits of this Order, in accordance with the terms of the Charter and the provisions of this Order.

8. The Company may exercise such administration by an officer styled the Administrator, and under him by such other officers as may from time to time be necessary. The Company shall appoint and pay the Administrator and all such officers; but shall obtain the approval of a Secretary of State before appointing any person to the office of Administrator. The salary of the Administrator shall be fixed by the Company, with the approval of a Secretary of State, and shall not be increased or diminished without his approval. The Administrator may be removed or suspended from office by a Secretary of State or by the Company, with the approval of a Secretary of State.

9. The Administrator may hold office, unless sooner removed, for three years from the date of which he enters upon the duties of his office; and, with the approval of a Secretary of State, may from time to time be reappointed for the further term of three years. At the end of any such term the Administrator may continue in office until reappointed or until his successor is appointed.

10. If at the end of any such term, or if on a vacancy in the office the Company does not within six months thereafter, with the approval of a Secretary of State, reappoint the Administrator or appoint his successor, a Secretary of State may appoint some person to be Administrator.

11. The Company, with the approval of a Secretary of State, may appoint some person to act as Administrator in the event

* Printed at pp. 1-35 above.

of the death, removal, resignation, absence, incapacity, or suspension of the Administrator. When there is no Administrator or Acting Administrator within the limits of the Order capable of discharging the duties of the office, the Senior Judge may act as Administrator.

12. As soon as the Company, by resolution of its Board of Directors, declares that it is expedient that a Council should be appointed, there shall be a Council to assist the Administrator, consisting of the Senior Judge, *ex officio*, and not less than three other members appointed by the Company, with the approval of a Secretary of State. A member of the said Council shall hold office for three years, unless sooner removed by the Company, with the like approval, but shall be eligible for reappointment.

In the event of the resignation, suspension, or absence from North-Eastern Rhodesia or other incapacity of a member of the Council other than the Senior Judge, the Company may, with the approval of a Secretary of State, appoint some other person to fill the temporary vacancy thus caused.

Provided that in default of such appointment by the Company within a period of six months after a vacancy has arisen, a Secretary of State may appoint a person to fill the vacancy.

Every member appointed to fill any such temporary vacancy shall cease to be a member on the return to North-Eastern Rhodesia or the removal of the suspension or incapacity of the member in whose place he was appointed.

Every member of the Council shall, before taking his seat, take and subscribe before the Administrator or some other person authorised by him the following oath of allegiance :—

“I, A.B., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her heirs and successors according to law. So help me God.”

But any person authorised by law to affirm or declare instead of taking an oath may make such affirmation or declaration in lieu of such oath.

13. The Council shall meet whenever summoned by the Administration, and shall be competent to discharge its functions notwithstanding the existence of one vacancy among its members, whether caused by a vacancy in the office of Senior Judge or of one of the other members. The Administrator shall preside at all meetings of the Council, and any two members with the Administrator shall form a quorum. All questions shall be decided by a majority of the votes of those present, and if the votes are equal the Administrator shall have a casting vote.

14. The Administrator shall take the advice of the Council upon all matters of importance affecting the administration of affairs within the limits of this Order, except in cases which are too urgent to admit of their advice being taken. In all such urgent cases he shall as soon as possible summon the Council and acquaint them with the action taken, and the reason therefor.

15. The Administrator may act contrary to the advice of the

Council, but in every such case he shall report the matter forthwith to the Company, with the reasons for his action. In every such case any member of the Council who dissents may require that the reasons for his dissent be recorded and transmitted to the Company. The Company may reverse any action of the Administrator, whether taken with or without or against the advice of the Council.

16. It shall be lawful for the Administrator, and, after the Council has been constituted as provided by this Order, for the Administrator with the concurrence of the Council, to make, alter, and repeal Regulations for the administration of justice, the raising of revenue, and generally for the peace, order, and good government of all persons within the limits of this Order, provided that Regulations under this Article shall not be made affecting the constitution, government, or control of the military police forces. Such Regulations, when promulgated as hereinafter mentioned, shall take effect within the limits of this Order as if they were contained in this Order.

A Regulation made after the constitution of the Council shall not be valid unless two members of the Council beside the Administrator have concurred in it.

No Regulation shall be valid unless the Commissioner has approved it, and it has been promulgated by being published in the "Gazette" by authority of the Commissioner with a notification of his approval.

The production of a copy of the "Gazette" in which a Regulation purports to be published by authority of the Commissioner shall be evidence of promulgation, and of the approval of the Commissioner, and of its having received the requisite concurrence of the Council.

The Commissioner shall sign every Regulation assented to by him, and shall, at the first convenient opportunity, transmit an authenticated copy of every such Regulation to the Secretary of State, and every such Regulation may be disallowed within one year from the taking effect thereof by a Secretary of State, either of his own motion or at the request of the Company, and every Regulation so disallowed shall become null and void so soon as the disallowance thereof shall be published in the "Gazette," but without prejudice to anything theretofore lawfully done thereunder.

17. The Commissioner may, from time to time by Regulations (to be called Queen's Regulations), provide for the administration of justice, the raising of revenue, and generally for the peace, order, and good government of all persons within the limits of this Order. Provided that the Commissioner, before issuing any such Regulations, shall, whenever possible, have regard to any suggestions or requests made to him in respect thereof by the Company, and that no Queen's Regulations concerning the raising or appropriation of revenue shall be made unless the assent of the Company has been previously given thereto. Such assent may be signified by telegraph.

All Queen's Regulations shall be published in the "Gazette," and shall, from and after the commencement thereof respectively, and thereafter until disallowed by Her Majesty, or repealed or modified by any subsequent Regulation or Queen's Regulations, have effect as if contained in this Order.

Her Majesty may disallow any Queen's Regulations, wholly or in part, and may signify such disallowance through a Secretary of State, and upon such disallowance being publicly notified by the Commissioner in the "Gazette," the provisions so disallowed shall, from and after a date to be mentioned in such notification, ceased to have effect, but without prejudice to anything theretofore lawfully done thereunder.

The Commissioner, in issuing Queen's Regulations and in approving Regulations made by the Administrator under this Order, shall respect any native laws or customs by which the civil relations of any native Chiefs, tribes, or populations under Her Majesty's protection are now regulated, except so far as the same may be incompatible with the due exercise of Her Majesty's power and jurisdiction.

18. No customs duties levied on any articles produced or manufactured in any part of Her Majesty's dominions or in any British Protectorate and imported into North-Eastern Rhodesia shall exceed in amount the duties levied on such articles, according to the Tariff in force in the South African Customs Union at the date of the coming into operation of "The Southern Rhodesia Order in Council, 1898,"* or the Tariff contained in the Customs Union Convention, concluded between the Colony of the Cape of Good Hope, the Orange Free State, and the Colony of Natal, in May 1898,† whichever shall be the higher.

19. Subject to the provisions of this Order a Regulation made by the Administrator may amend or repeal any Queen's Regulations.

If any Regulation is in any respect repugnant to the provisions of any Order in Council, such Regulations shall to the extent of such repugnancy be absolutely void.

PART III.—POLICE.

20. The military police forces shall be and remain under the direct control and authority of the Commissioner, and all officers and members of the said forces shall conform to and obey such orders and instructions as they may from time to time receive from the Commissioner, or from any person appointed by him to act on his behalf.

The foregoing provisions of this Article shall not apply to any civil police force which may be raised and constituted under any Regulations to be made by the Administrator under this Order.

* Printed at p. 115 below.

† This Convention was published in the Natal Government Gazette on May 20, 1898—Government Notice, No. 390, 1898.

PART IV.—JUDICIAL.

21. (1.) There shall be a Court of Record, styled the High Court of North-Eastern Rhodesia, with full jurisdiction, civil and criminal, over all persons and over all matters within North-Eastern Rhodesia, subject to the provisions hereinafter contained with regard to native law and custom.

(2.) Such civil and criminal jurisdiction shall, so far as circumstances admit, be exercised upon the principles of and in conformity with the substance of the law for the time being in force in and for England, and with the powers vested in and according to the course of procedure and practice observed by and before Courts of Justice and Justices of the Peace in England according to their respective jurisdictions and authorities, except so far as such law may be modified by any Order in Council, Regulation, or Queen's Regulation.

(3.) The High Court shall have a seal, bearing the style of the Court, and such device as a Secretary of State from time to time approves ; but until such a seal is provided the seal of the Company may be used.

22. There shall be as many Judges of the High Court, to be paid by the Company, as from time to time may be required. Every Judge shall be appointed by a Secretary of State on the nomination of the Company, and shall hold office during good behaviour, and shall only be removed by a Secretary of State. The salaries of the Judges shall be fixed by the Company, with the approval of a Secretary of State, and shall not be increased or diminished without his approval.

23. Whenever the appointment of a Judge is necessary the Company shall nominate to a Secretary of State a fit and proper person for the office. If the Secretary of State does not approve of such a person he shall so inform the Company, and the Company shall thereupon nominate another person, and so on *toties quoties*, but if the Company has not within six months from the date of the occurrence of a vacancy nominated some person whom the Secretary of State approves, the Secretary of State may appoint a person who has not been so nominated.

24. The High Court shall sit at such places as may from time to time be prescribed by the Administrator. The jurisdiction of the High Court may, until other arrangements are made under this Order, be exercised by any Judge thereof sitting alone.

25. If any sentence of death is pronounced by the High Court, a copy of the evidence shall be transmitted to the Commissioner ; and the sentence shall not be carried into effect until confirmed by him. The Commissioner may signify his confirmation by telegraph.

26. The Commissioner may remit or commute, in whole or in part, any sentence of the High Court, and may signify such remission or commutation by telegraph.

27. The High Court may make Rules for regulating its procedure and practice and the admission of practitioners, and generally for the purpose of making any provision proper or necessary for the proper or effectual exercise of jurisdiction under this Order by the High Court, and the Magistrates' Courts hereafter mentioned, and the Rules affecting the conduct of civil suits shall be so framed as to secure as far as may be that cases shall be decided on their merits according to substantial justice without excessive regard to technicalities of pleading or procedure and without unnecessary delay. Subject hereto, and so far as the same do not extend, the procedure, Rules and Regulations of the High Court shall be the same as the procedure, Rules and Regulations of the English Courts.

28. In civil matters when the amount or value in dispute exceeds 500*l.* sterling, an appeal shall lie from the High Court to Her Majesty in Council.

Every appeal shall be brought within such time, and in such manner as regards the form and transmission of the appeal, as may be prescribed by any Rules of Procedure made by Her Majesty in Council.

29. There shall be Magistrates' Courts, with jurisdiction over all persons within the districts assigned to them. A Magistrate's Court shall be a Court of Record, and shall have such jurisdiction in civil and criminal cases respectively as may be prescribed in pursuance of this Order

30. (1.) The Administrator may from time to time determine the number of Magistrates' Courts required within North-Eastern Rhodesia, and, by notice in the "Gazette," from time to time assign to each such Court the local limits of the district within which it is to have jurisdiction, and specify the place or places at which the Court is to be held.

(2.) The Administrator, with the approval of the Commissioner, may appoint a Magistrate to each such Court, and, if occasion requires, any Assistant Magistrates.

(3.) Every Assistant Magistrate may exercise all the jurisdiction of the Court, and the provisions of this Order with respect to Magistrates shall apply to Assistant Magistrates; provided that, in the conduct of business, every Assistant Magistrate shall be subject to the directions of the Magistrate.

(4.) A Magistrate appointed to one Court may exercise the jurisdiction of any other Court if present therein.

(5.) The salaries of Magistrates shall be fixed by the Administrator with the approval of the Commissioner, and shall not be increased or diminished without his approval.

(6.) In the case of illness, absence, or other emergency the Administrator may appoint a competent person to act as Magistrate or Assistant Magistrate. He shall forthwith report every such appointment and the circumstances thereof to the Commissioner for his approval, and when the Commissioner disapproves any

such appointment the person so appointed shall cease to act after notice of the disapproval has been received by the Administrator.

31. A Magistrate upon appointment may forthwith enter upon the duties of his office, but the appointment is subject to confirmation by a Secretary of State; if such confirmation is refused the Commissioner shall give public notice thereof in the "Gazette," and thereupon the powers of the Magistrate shall cease. A Magistrate may at any time be removed from office by a Secretary of State, or by the Administrator, with the approval of a Secretary of State, but not otherwise.

32. A Magistrate on appointment shall, before exercising any of the functions of his office, in open Court take the following oath:—

I, A.B., do promise and swear that I will faithfully, impartially, and diligently execute to the best of my abilities the duties of the office of Magistrate. So help me God.

33. Subject to any Regulations and Rules of Court, appeals shall lie to the High Court from the Magistrates' Courts.

34.—(1.) The Commissioner may suspend a Judge or Magistrate from his office for misconduct, but shall first cause him to be furnished with a written statement of the acts of misconduct alleged against him, and cause him to be called on to state in writing by a given day (which shall allow a reasonable interval) any grounds upon which he relies to exculpate himself.

(2.) If the suspension takes place, the Commissioner shall forthwith transmit a full report of the matter, and the proofs of the alleged misconduct, to a Secretary of State, who may confirm or disallow the suspension.

(3.) If the suspension is confirmed, the suspended officer is thereby removed from office; if it is disallowed, the suspended officer is thereby restored to office, and is entitled to any salary that has been withheld during his suspension.

(4.) If the Secretary of State is of opinion that the officer deserves punishment, but not the extreme penalty of removal from office, he may, instead of disallowing the suspension, direct that the officer be restored to office, but be required to serve at a reduced salary; either permanently or for a stated period; or that a specific sum be deducted from any salary due or to become due to the officer; or that he be transferred to a lower office.

35. In civil cases between natives the High Court and the Magistrates' Courts shall be guided by native law so far as that law is not repugnant to natural justice or morality, or to any Order made by Her Majesty in Council, or to any Regulation made under this Order. In any such case the Court may obtain the assistance of one or two native assessors, to advise the Court upon native law and customs, but the decision of the Court shall be given by the Judge or Magistrate alone. In all other respects the Court shall follow, as far as possible, the procedure observed in similar cases in England.

36. If in any civil case between natives a question arises as to

Africa :—North-Eastern Rhodesia Order, 1900 :—Arts. 36–41. 65.

the effect of a marriage contracted, according to native law or custom, by a native in the lifetime of one or more other wives married to him according to native law or custom, the Court may treat such marriage as valid for all civil purposes, in so far as polygamous marriages are recognised by the said native law or custom.

37. The Commissioner by Queen's Regulations, or the Administrator by Regulation, may make such other or further provisions as from time to time may appear desirable to secure the more efficient working of the several Courts constituted by this Order.

PART V.—NATIVE ADMINISTRATION.

38.—(1.) The Administrator may from time to time, with the approval of the Commissioner, subject to confirmation by a Secretary of State, appoint an officer to be called the Secretary for Native Affairs, and officers to be called Native Commissioners, and, if occasion requires, Assistant Native Commissioners, and may, by notice in the "Gazette," prescribe the powers, duties, salaries, and districts to be assigned to such officers.

(2.) The provisions of this Order with respect to the appointment, salaries, suspension, and removal of Magistrates shall apply to the appointment, salaries, suspension, and removal of the Secretary for Native Affairs, Native Commissioners, and Assistant Native Commissioners, and any other persons employed in the administration of native affairs, and the Commissioner and a Secretary of State shall have and exercise the like powers with respect to these officers as under this Order are exercisable by them in the case of Magistrates.

(3.) The Commissioner may by Queen's Regulations confer upon any Native Commissioner or Assistant Native Commissioner such jurisdiction, not exceeding that exercisable by Magistrates, as may from time to time appear to him to be expedient.

39. No conditions, disabilities, or restrictions shall, without the previous consent of a Secretary of State, be imposed upon natives by Regulation which do not equally apply to persons other than natives, save in respect of fire-arms, ammunition, liquor, or any matter in respect of which a Secretary of State, upon the recommendation of the Administrator, thinks fit to authorise any Regulations or Queen's Regulations.

40. The Company shall from time to time assign to the natives inhabiting North-Eastern Rhodesia land sufficient for their occupation, whether as tribes or portions of tribes, and suitable for their agricultural and pastoral requirements, including in all cases a fair and equitable proportion of springs or permanent water.

41. All questions relating to the settlement of natives on the lands within North-Eastern Rhodesia shall be dealt with and decided by the Administrator, but all such decisions shall be reported to and be subject to review by the Commissioner.

42. A native may acquire, hold, encumber, and dispose of land on the same conditions as a person who is not a native, but no contract for encumbering or alienating land the property of a native shall be valid unless the contract is made in the presence of a Magistrate, is attested by him, and bears a certificate signed by him stating that the consideration for the contract is fair and reasonable, and that he has satisfied himself that the native understands the transaction.

43. The Company shall retain the mineral rights in all land assigned to natives. If the Company should require any such land for the purpose of mineral development, or as sites of townships, or for railways or other public works, the Administrator, by direction of the Company, and upon good and sufficient cause shown, may, with the approval of the Commissioner, order the natives to remove from such land or any portion thereof, and shall assign to them just and liberal compensation in land elsewhere, situate in as convenient a position as possible, sufficient and suitable for their agricultural and pastoral requirements, containing a fair and equitable proportion of springs or permanent water, and, as far as possible, equally suitable for their requirements in all respects as the land from which they are ordered to remove.

44.—(1.) No native shall be removed from any kraal or from any land assigned to them for occupation, except after full inquiry by, and by order of the Administrator approved by the Commissioner.

(2.) If any person without such order removes or attempts to remove any native from any kraal or from any land unless in execution of the process of a competent Court, he shall, in addition to any other proceeding to which he is liable, be guilty of an offence against this Order, and on conviction before the High Court shall be liable to imprisonment with or without hard labour for any period not exceeding two years, or to a fine not exceeding 100*l.*, or to both.

45. The Commissioner may, if he thinks fit, refer any question relating to natives for report to any Judge of the High Court, and the Judge shall thereupon make such inquiry as he thinks fit, and shall report to the Commissioner the result of such inquiry. The Commissioner may act with reference to any such report as he thinks fit.

46.—(1.) The Administrator shall, when so required by the Commissioner, appoint in any magisterial district a subordinate Tribunal, to consist of the Magistrate, or any Assistant Magistrate, and two Assessors, from time to time selected by a Judge of the High Court upon the request of the Commissioner.

(2.) Such Tribunal shall report and make recommendations to the Commissioner upon all questions relating to natives referred to it by or by the direction of the Commissioner, or by any Judge to whom any question relating to natives has been referred by the Commissioner. The Commissioner may deal with any such reports or recommendations as he thinks fit.

47. In case of a revolt against the Company, or other misconduct committed by a native Chief or tribe, the Administrator may impose a reasonable fine upon the offender. The Administrator shall forthwith report every such case to the Commissioner, who may remit the fine in whole or in part; the Administrator shall give effect to any such remission.

48.—(1.) The Commissioner shall transmit to a Secretary of State a report upon every case relating to natives dealt with by him under this Part of this Order, together with copies of all reports and recommendations and all documents relating to such case, and a Secretary of State may review any case and reverse or modify any decision given or order made therein, and may give such directions in the matter as he thinks fit, and due effect shall be given to such directions by all persons.

(2.) Provided that such directions shall only be binding where a Secretary of State has within twelve months after receiving the report of the Commissioner given notice to the Commissioner that he intends to review any such case.

PART VI.—MISCELLANEOUS.

49.—(1.) Where the approval of a Secretary of State is required under this Order for the appointment of any officer, such officer may, upon appointment, enter upon and perform the duties of his office before such approval has been signified, but until approved or disapproved by a Secretary of State such appointment shall be regarded as provisional only.

(2.) If any such appointment is disapproved by a Secretary of State the person so appointed shall cease to hold the office as soon as the signification of such disapproval is received by the Administrator, but without prejudice to anything lawfully done by him during his provisional appointment.

(3.) The Administrator shall forthwith report to the Commissioner, who shall report to a Secretary of State every such provisional appointment.

(4.) Notice of the disapproval of a Secretary of State shall be published in the "Gazette."

50. Judicial notice shall be taken of this Order and of the commencement thereof, and of any Regulation made under this Order and published in the "Gazette."

51. This Order shall be published in the "Gazette"* and also at such public place within the limits of this Order as the Commissioner shall appoint.

This Order shall commence and have effect as follows :—

- (1.) As to the making of any warrant or appointment, and as to the framing of any Regulations or Rules and the approval thereof, immediately from and after the passing of this Order.

* This Order was published in the British Central Africa Gazette, May 31, 1900.

(2.) As to all other matters and provisions comprised and contained in this Order, immediately from and after the expiration of one month after this Order is published in the "Gazette."

A. W. FitzRoy.

(c) **British East Africa.**

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| (i). <i>East Africa Protectorate</i> ,
p. 68. | (ii). <i>Uganda Protectorate</i> , p. 77.
(iii). <i>Zanzibar</i> , p. 87. |
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(i) **East Africa Protectorate.**

THE EAST AFRICA ORDER IN COUNCIL. 1902.

1902. No. 661,

At the Court at Buckingham Palace, the 11th day of August, 1902.

PRESENT :

The King's Most Excellent Majesty in Council,

Whereas the territories of Africa situate within the limits of this Order are under the protection of His Majesty the King, and are known as the East Africa Protectorate ;

And whereas by Treaty, grant, usage, sufferance, and other lawful means, His Majesty has power and jurisdiction within the said territories :

Now, therefore, His Majesty, by virtue, and in exercise of the powers on this behalf by The Foreign Jurisdiction Act, 1890,* or otherwise, in His Majesty vested, is pleased, by and with the advice of his Privy Council, to order, and it is hereby ordered, as follows :—

Preliminary.

1. This Order may be cited as "The East Africa Order in Council, 1902."

The limits of this Order are the territories comprised in the East Africa Protectorate, which includes the territories bounded on the east and north-east by the Indian Ocean, the Juba River, the south-western boundary of the Italian sphere, on the north by the Abyssinian frontier, on the west by the Uganda Protectorate, and on the south by the German sphere, and includes all adjacent islands between the mouths of the Rivers Juba and Umba.

The said territories are in this Order referred to as "East Africa" and "the Protectorate."

If His Majesty is pleased to direct that any other territories, for the time being under the protection of His Majesty, shall form part of the East Africa Protectorate, those territories shall, from and after a date to be fixed by an order of the Secretary of State, be deemed to be within the limits of this Order. In like

* 53 & 54 Vict. c. 37.

manner, if His Majesty is pleased to direct that any territories for the time being forming part of the East Africa Protectorate shall cease to form part thereof, those territories shall, from and after a date to be fixed by an order of the Secretary of State, cease to be within the limits of this Order.

2. In this Order—

“Secretary of State” means one of His Majesty’s Principal Secretaries of State;

“Crown Lands” means all public lands in East Africa which are subject to the control of His Majesty by virtue of any Treaty, Convention, or Agreement, or of His Majesty’s Protectorate, and all lands which shall have been acquired by His Majesty for the public service or otherwise howsoever;

“Gazette” means the Gazette of the East Africa Protectorate;

“Person” includes Corporation;

Words importing the plural or the singular may be construed as referring to one person or thing, or to more than one person or thing, and words importing the masculine as referring to females (as the case may require).

3.—(1.) Where this Order or any Ordinance confers a power or imposes a duty, then, unless a contrary intention appears, the power may be exercised and the duty shall be performed from time to time as occasion requires.

(2.) Where this Order or any Ordinance confers a power or imposes a duty on the holder of an office, then, unless a contrary intention appears, the power may be exercised and the duty shall be performed by the holder of the office for the time being, or by a person duly appointed to act for him.

(3.) Where this Order or any Ordinance confers a power to make rules, regulations, or orders, then, unless a contrary intention appears, the power shall be construed as including a power, exercisable in the like manner and subject to the like approval and conditions (if any) to rescind, revoke, amend, or vary the rules, regulations, or orders.

(4.) Expressions defined in this Order shall have the same respective meanings in any Ordinances, rules, or regulations made under this Order, unless a contrary intention appears.

Administration.

4.—(1.) His Majesty may by Commission under His Sign Manual and Signet appoint a fit person to administer the Government of East Africa under the designation of Commissioner or such other designation as His Majesty thinks fit, and the person so appointed is hereinafter referred to as the Commissioner.

(2.) In the event of the death, incapacity, removal, or absence from East Africa of the Commissioner for the time being, all and every the powers and authorities by this Order granted to him shall, until His Majesty’s further pleasure is signified through the Secretary of State, be vested in the Deputy Commissioner

or other principal officer of the Protectorate Government for the time being in East Africa.

(3.) The Commissioner shall administer the Government of East Africa in the name and on behalf of His Majesty, and shall do and execute in due manner all things that shall belong to his said command and to the trust thereby reposed in him, according to the several powers and authorities granted or appointed to him by virtue of this Order and of his Commission, and according to such instructions as may from time to time be given to him under His Majesty's Sign Manual and Signet, or by Order of His Majesty in Council, or by His Majesty through a Secretary of State, and according to such laws as are or shall hereafter be in force in the Protectorate.

5. The Commissioner shall have an official seal, bearing the style of his office, and such device as a Secretary of State from time to time approves, and such seal shall be deemed the public seal of East Africa, and may be kept and used by the Commissioner for the sealing of all things whatsoever that shall pass the public seal. And, until a public seal shall be provided, the seal of the Commissioner may be used as the public seal.

6.—(1.) The Commissioner may, with the approval of the Secretary of State, by Proclamation, define any boundaries of the territories for the time being within the limits of this Order, and divide those territories into provinces or districts in such manner and with such sub-divisions as may be convenient for purposes of administration, describing the boundaries thereof and assigning names thereto.

(2.) If a question arises whether any place is or is not within the Protectorate, or within any province, and such question does not appear to be determined by any such Proclamation, or other evidence, it shall be referred to the Commissioner, and a certificate under his hand and seal shall be conclusive on the question, and judicial notice shall be taken thereof.

7.—(1.) All rights of His Majesty in or in relation to any Crown lands shall vest in and may be exercised by the Commissioner for the time being in trust for His Majesty, or if the Secretary of State at any time with respect to all or any such lands by order under his hand so directs, in such other trustee or trustees for His Majesty as the Secretary of State may appoint.

(2.) The Secretary of State may, when he thinks fit, by a like order remove any trustee so appointed, and may appoint any new or additional trustee or trustees.

(3.) The Commissioner, or such other trustee or trustees, may make grants or leases of any Crown lands, or may permit them to be temporarily occupied, on such terms and conditions as he or they may think fit, subject to the provisions of any Ordinance.

(4.) All mines and minerals being in, under, or upon any lands in the occupation of any native tribe, or any members thereof, or of any person not possessed of the right to work such mines and minerals, shall vest in the Commissioner, or such trustee

or trustees, in like manner as the mines and minerals being in, under, or upon any Crown lands.

8. The Commissioner may, as he shall see occasion, in His Majesty's name and on His behalf, grant to any offender convicted of any offence in any Court in East Africa, a free and unconditional pardon, or a pardon subject to such conditions as may be lawfully thereunto annexed, or remit or commute any sentence in whole or in part.

9. The Commissioner may, as he shall see occasion, in His Majesty's name and on His behalf, remit any fines, penalties, or forfeitures which may accrue or become payable to His Majesty.

10.—(1.) A Secretary of State, or the Commissioner, subject to the directions of a Secretary of State, may, on behalf of His Majesty, appoint, or authorise the appointment of, such public officers for the administration of East Africa, under such designations as he may think fit, and may prescribe their duties.

(2.) The Commissioner may, upon sufficient cause to him appearing, suspend from the exercise of his office in East Africa any such public officer, which suspension shall continue and have effect only until His Majesty's pleasure therein shall be made known and signified to the Commissioner.

(3.) Subject to the provisions of any Ordinance, the Commissioner may appoint, or authorise Heads of Departments to appoint, such clerks and other subordinate officers as may be required; and unless other provision is made, all subordinate officers shall be removable by the respective officers by whom they were appointed.

11. All Ordinances, Proclamations, Regulations, Rules, or other public notifications shall be published in the Gazette, and also in such other manner, if any, as the Commissioner may direct in the case of any particular notification.

Legislation.

12.—(1.) The Commissioner may make Ordinances for the administration of justice, the raising of revenue, and generally for the peace, order, and good government of all persons in East Africa.

(2.) The Commissioner shall observe any general or special instructions of the Secretary of State with respect to the previous submission to the Secretary of State of draft Ordinances, to the making of Ordinances for particular purposes, to the amendment of Ordinances or draft Ordinances, and to other matters in relation thereto; but nothing in this provision shall affect the validity of any Ordinance.

(3.) In making Ordinances, the Commissioner shall respect existing native laws and customs except so far as the same may be opposed to justice or morality.

(4.) The Commissioner shall sign every Ordinance made by him, and shall at the first available opportunity transmit an authenticated copy thereof to the Secretary of State.

(5.) The Secretary of State may disallow any Ordinance,

wholly or in part, and upon such disallowance being publicly notified in the Gazette, the provisions so disallowed shall thereupon cease to have effect, but without prejudice to anything lawfully done or suffered thereunder.

(6.) The Ordinances of each year shall be numbered consecutively, and each may be cited by its number and year, or by its short title, if any.

(7.) Where a date for the commencement of an Ordinance is not fixed in the Ordinance, it shall come into force on the day on which it is promulgated by the Commissioner.

(8.) An Ordinance may apply to East Africa any Act or law of the United Kingdom or of any legislature of India or of any Colony, subject to any exceptions and modifications.

(9.) The Commissioner shall, at the first available opportunity after any rules or regulations are made under any Ordinance by any person or body authorised, transmit an authenticated copy thereof to the Secretary of State.

(10.) An Ordinance shall not be repealable by any rules or regulations made under an Ordinance.

(11.) An Ordinance varying or affecting any Order in Council relating to the Protectorate, which is not repealed by this Order, shall not come into force unless it has been previously approved by the Secretary of State, and such approval shall be recited therein.

Application of Law.

13. The enactments described in the First Schedule to the Foreign Jurisdiction Act, 1890,* shall apply to East Africa as if it were a British Colony or possession, but subject to the provisions of this Order and to the exceptions, adaptations, and modifications following, that is to say:—

- (i.) The Commissioner is hereby substituted for the Governor of a Colony or British possession, and the High Court is hereby substituted for a Superior Court or Supreme Court, and for a Magistrate or Justice of the Peace of a Colony or British possession.
- (ii.) For the portions of the Merchant Shipping Acts, 1854† and 1867,‡ referred to in the said Schedule, shall be substituted Part XIII. of The Merchant Shipping Act, 1894.§
- (iii.) In section 51 of The Conveyancing (Scotland) Act, 1874,|| and any enactment for the time being in force amending the same, the High Court is substituted for a Court of Probate in a Colony.
- (iv.) With respect to The Fugitive Offenders Act, 1881¶—

(a.) So much of the 4th and 5th sections of the said Act as relates to sending a report of the issue of a warrant, together with the information, or a copy thereof, or to the sending of a certificate of committal

* 53 & 54 Vict. c. 37.
 † 30 & 31 Vict. c. 124.
 || 37 & 38 Vict. c. 94.

† 17 & 18 Vict. c. 120.
 § 57 & 58 Vict. c. 60.
 ¶ 44 & 45 Vict. c. 69.

and report of a case, or to the information to be given by a Magistrate to a fugitive, shall be excepted, and in lieu of such information the person acting as the Magistrate shall inform the fugitive that in the British possession or Protectorate to which he may be conveyed he has the right to apply for a writ of *habeas corpus* or other like process.

(b.) So much of the 6th section of the said Act as requires the expiration of fifteen days before issue of warrant, shall be excepted.

(c.) The Commissioner shall not be bound to return a fugitive offender to a British possession unless satisfied that the proceedings to obtain his return are taken with the consent of the Governor of that possession.

(d.) For the purposes of Part II. of the said Act, Uganda, Zanzibar, the East Africa Protectorate, and all British possessions and Protectorates in Africa south of the Equator shall be deemed to be one group of British possessions.

14. Where under the Merchant Shipping Act, 1894, or any amending Act, anything is authorised to be done by, to, or before a British Consular officer, such thing may be done, in any place in the Protectorate at which there is no Consular officer, by such officer of the Protectorate Government as the Commissioner may appoint.

Courts of Justice.

15.—(1.) There shall be a Court of Record styled “His Majesty’s High Court of East Africa” (in this Order referred to as the High Court) with full jurisdiction, civil and criminal, over all persons and over all matters in East Africa.

(2.) Such civil and criminal jurisdiction shall, so far as circumstances admit, be exercised in conformity with the Civil Procedure, Criminal Procedure, and Penal Codes of India, and the other Indian Acts which are in force in East Africa at the commencement of this Order, except so far as may be otherwise provided by law.

(3.) The High Court shall sit at such place or places as the Commissioner may appoint.

(4.) The High Court shall have a seal bearing the style of the Court and a device approved by the Secretary of State; but until such a seal is provided, a stamp bearing the words “High Court of East Africa” may be used instead thereof.

16.—(1.) The High Court shall be a Court of Admiralty and shall exercise Admiralty jurisdiction in all matters arising on the high seas or elsewhere or upon any lake or other navigable inland waters or otherwise relating to ships and shipping.

(2.) The following enactments of The Colonial Courts of Admiralty Act, 1890,* that is to say, section 2, sub-sections (2) to

* 53 & 54 Vict. c. 27.

(4), sections 5 and 6, section 16, sub-section (3), shall apply to the High Court as if in the said sections the said Court were mentioned in lieu of a Colonial Court of Admiralty, and the Protectorate were referred to in lieu of a British possession.

(3.) Admiralty jurisdiction may be conferred by Ordinance on any Court subordinate to the High Court.

(4.) Any Ordinance varying or affecting the Admiralty jurisdiction of any Court or conferring Admiralty jurisdiction on any Court shall not come into force unless it has been previously approved by the Secretary of State, and such approval shall be recited therein.

17.—(1.) There shall be as many Judges of the High Court as may from time to time be required.

(2.) Every Judge shall be appointed by His Majesty, and shall hold office during pleasure.

(3.) When there are more Judges than one, the principal Judge shall have such distinguishing title as the Secretary of State may approve.

(4.) In any case of death, illness, or absence, or in any other emergency, the Commissioner may appoint an acting Judge.

18.—(1.) Courts subordinate to the High Court, and Courts of special jurisdiction, may be constituted by or under the provisions of any Ordinance as occasion requires.

(2.) Provision may be made by Ordinance for the hearing and determining of appeals from any such Court by the High Court or otherwise.

19. Article 10 of this Order shall apply to the appointment of all Judges and Magistrates (other than Judges of the High Court), and to Registrars and other principal officers of the High Court in like manner as it applies to public officers, and the provisions of that Article relating to clerks and other subordinate officers shall apply to all Courts.

20. In all cases, civil and criminal, to which natives are parties, every Court (a) shall be guided by native law so far as it is applicable and is not repugnant to justice and morality or inconsistent with any Order in Council or Ordinance, or any regulation or rule made under any Order in Council or Ordinance; and (b) shall decide all such cases according to substantial justice without undue regard to technicalities of procedure and without undue delay.

21. If any sentence of death is pronounced by the High Court a copy of the evidence shall be transmitted to the Commissioner, and the sentence shall not be carried into effect until confirmed by him.

22. Subject to the provisions of any Ordinance, the High Court may, with the approval of the Commissioner, make rules for regulating the practice and procedure of the High Court and of all other Courts which may be established in East Africa.

The power to make rules under this Article shall include (a)

a power to fix fees and scales of remuneration, and (b) a power to regulate the conditions on which persons may be admitted to practice as advocates or solicitors in the Courts of East Africa.

At the first available opportunity after any such rules are made, the Commissioner shall transmit an authenticated copy thereof to the Secretary of State.

23.—(1.) A Court under this Order shall not exercise any jurisdiction in any proceeding whatsoever over the Commissioner or his official or other residences, or his official or other property.

(2.) This Article shall not operate in bar of any proceeding against the Commissioner in his official capacity, where it is sought to establish any liability of the Government of the Protectorate.

Removal and Deportation.

24. Where an offender convicted before any Court is sentenced to imprisonment, and the Commissioner, proceeding under section 7 of The Foreign Jurisdiction Act, 1890, authority in that behalf being hereby given to him, considers it expedient that the sentence should be carried into effect outside of the Protectorate, the place shall be a place in some part of His Majesty's dominions out of the United Kingdom, the Government whereof consents that offenders may be sent thither under this Article.

25.—(1.) Where it is shown by evidence on oath, to the satisfaction of the Commissioner, that any person is conducting himself so as to be dangerous to peace and good order in East Africa, or is endeavouring to excite enmity between the people of East Africa and His Majesty, or is intriguing against His Majesty's power and authority in East Africa the Commissioner may, if he thinks fit, by order under his hand and official seal order that person to be deported from the Protectorate to such place as the Commissioner may direct.

(2.) The place shall be a place in some part (if any) of His Majesty's dominions to which the person belongs, or the Government of which consents to the reception of persons deported under this Order, or to some place under the protection of His Majesty.

(3.) An appeal shall not lie against an order of deportation made under this Article.

(4.) If any person deported under this Order returns to the Protectorate without the permission in writing of the Secretary of State (which permission the Secretary of State may give) he shall be deemed guilty of an offence, and liable, on conviction, to imprisonment for any period not exceeding three months, with or without a fine not exceeding five hundred rupees; and he shall also be liable to be forthwith again deported.

(5.) The Commissioner, by order under his hand and official seal, may vary or rescind any order of deportation under this Article.

(6.) The Commissioner shall forthwith report to the Secretary of State every order made by him under this Article, and the grounds thereof, and the proceedings thereunder.

26.—(1.) Where, under this Order, a person is to be removed or deported from the Protectorate, he shall, by warrant of the Commissioner under his hand and seal, be detained, if necessary, in custody or in prison, until a fit opportunity for his removal or deportation occurs, and then, if he is to be deported beyond sea, be put on board one of His Majesty's vessels of war, or, if none is available, then on board some other British or other fit vessel.

(2.) The warrant of the Commissioner shall be sufficient authority to the person to whom it is directed or delivered for execution and to the Commander or master of the vessel to receive and detain the person therein named, in the manner therein prescribed, and to remove and carry him to the place therein named, according to the warrant.

(3.) In case of removal for any purpose other than deportation, the warrant of the Commissioner shall be issued in duplicate, and the person executing it shall, as soon as practicable after his arrival at the place therein named, deliver, according to the warrant, with one of the duplicates of the warrant, to a constable, or proper officer of police or keeper of a prison, or other proper authority or person there, the person named in the warrant, to be produced on the order of the proper Court or authority there, or to be otherwise dealt with according to law.

27. Subject to the other provisions of this Order, all expenses of removal of prisoners and others, and the expenses of deportation, and of the sending of any person to Zanzibar, or to any part of His Majesty's dominions or Protectorates, including expenses of maintenance, shall be defrayed in such manner as the Secretary of State directs.

Supplementary.

28. On the commencement of this Order, the following Orders in Council shall be repealed, that is to say :—

The East Africa Order in Council, 1897.*

The Africa (Acquisition of Lands) Order in Council, 1898.†

The Africa Protectorate (Capital Sentences) Order in Council, 1898.‡

The East Africa Order in Council, 1899.§

The East Africa (Lands) Order in Council, 1901.||

Provided as follows :—

- (1.) Where other provision is not made by Ordinance, any law practice or procedure established by or under the said repealed Orders and all Acts of any legislature in India now in force in East Africa shall remain in force until such other provision is made.
- (2.) Every appointment of a Judge or other officer and every Court established and existing at the commence-

* Printed in Statutory Rules and Orders 1897, p. 134.

† Printed in Statutory Rules and Orders 1898, p. 382,

‡ Printed at p. 39 above.

§ Printed in Statutory Rules and Orders 1899, p. 616.

|| Printed in Statutory Rules and Orders 1901, p. 99.

ment of this Order shall, until other provision is made, continue to be as if this Order had not been passed.

- (3.) All legal proceedings begun under the said repealed Orders and pending at the commencement of this Order shall be continued as if this Order had not been passed.
 - (4.) All regulations and rules made under the said repealed Orders shall remain in force until otherwise provided by Ordinance.
29. This Order shall commence and have effect as follows:—
- (1.) As to the making of any warrant or appointment, the framing of Ordinances and Rules of Procedure, the issue of instructions, and as to any other provisions necessary for bringing this Order into effect, immediately from and after the date of this Order.
 - (2.) As to all other matters and provisions comprised and contained in this Order, immediately after this Order is first published in the Gazette,* and the time of such publication shall be deemed to be the time of the commencement of this Order.

And the Most Honourable the Marquess of Lansdowne, K.G., one of His Majesty's Principal Secretaries of State, is to give the necessary directions herein.

A. W. FitzRoy.

THE EASTERN AFRICAN PROTECTORATES (COURT OF APPEAL) ORDER
IN COUNCIL, 1902, DATED AUGUST 11, 1902.

1902. No. 664.

This Order is printed at p. 49 above.

(ii) **Uganda.**

THE UGANDA ORDER IN COUNCIL, 1902.

1902. No. 662.

At the Court at Buckingham Palace, the 11th day
of August, 1902.

PRESENT :

The King's Most Excellent Majesty in Council.

Whereas the territories of Africa situate within the limits of this Order are under the protection of His Majesty the King, and are known as the Uganda Protectorate :

And whereas by Treaty, grant, usage, sufferance, and other lawful means His Majesty has power and jurisdiction within the said territories :

* This Order was published in the Gazette of the East Africa Protectorate, October 1, 1902.

Now, therefore, His Majesty, by virtue, and in exercise of the powers on this behalf by The Foreign Jurisdiction Act, 1890,* or otherwise, in His Majesty vested, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

Preliminary.

1. This Order may be cited as “The Uganda Order in Council, 1902.”

The limits of this Order are the territories constituting the Uganda Protectorate, that is to say, (1) the Central Province, comprising the districts of Elgon, Karamoja, Busoga, Bukedi, and Lohor; (2) the Rudolf Province, comprising the districts of Turkwel, Turkana, and Dabossa; (3) the Nile Province, comprising the districts of Dodinga, Bari, and Shuli; (4) the Western Province, comprising the districts of Unyoro, Toro, and Achole; and (5) the Kingdom of Uganda, with the islands appertaining thereto.

The said territories are in this Order referred to as “Uganda” and “the Protectorate.”

If His Majesty is pleased to direct that any other territories, for the time being under the protection of His Majesty, shall form part of the Uganda Protectorate, those territories shall, from and after a date to be fixed by an order of the Secretary of State, be deemed to be within the limits of this Order. In like manner, if His Majesty is pleased to direct that any territories for the time being forming part of the Uganda Protectorate shall cease to form part thereof, those territories shall, from and after a date to be fixed by an Order of the Secretary of State, cease to be within the limits of this Order.

2. In this Order—

“Secretary of State” means one of His Majesty’s Principal Secretaries of State;

“Crown Lands” means all public lands in Uganda which are subject to the control of His Majesty by virtue of any Treaty, Convention, or Agreement, or of His Majesty’s Protectorate and all lands which shall have been acquired by His Majesty for the public service or otherwise howsoever;

“Gazette” means the Gazette of the Uganda Protectorate;

“Person” includes Corporation;

Words importing the plural or the singular may be construed as referring to one person or thing, or to more than one person or thing, and words importing the masculine as referring to females (as the case may require).

3.—(1.) Where this Order or any Ordinance confers a power or imposes a duty, then, unless a contrary intention appears, the power may be exercised and the duty shall be performed from time to time as occasion requires.

* 53 & 54 Vict. c. 37.

(2.) Where this Order or any Ordinance confers a power or imposes a duty on the holder of an office, then, unless a contrary intention appears, the power may be exercised and the duty shall be performed by the holder of the office for the time being, or by a person duly appointed to act for him.

(3.) Where this Order or any Ordinance confers a power to make rules, regulations, or orders, then, unless a contrary intention appears, the power shall be construed as including a power, exercisable in the like manner and subject to the like approval and conditions (if any) to rescind, revoke, amend, or vary the rules, regulations, or orders.

(4.) Expressions defined in this Order shall have the same respective meanings in any Ordinance, rules, or regulations made under this Order, unless a contrary intention appears.

Administration.

4.—(1.) His Majesty may by Commission under His Sign Manual and Signet appoint a fit person to administer the Government of Uganda, under the designation of Commissioner or such other designation as His Majesty thinks fit, and the person so appointed is hereinafter referred to as the Commissioner.

(2.) In the event of the death, incapacity, removal or absence from Uganda of the Commissioner for the time being, all and every the powers and authorities by this Order granted to him shall, until His Majesty's further pleasure is signified through the Secretary of State, be vested in the Deputy Commissioner or other principal officer of the Protectorate Government for the time being in Uganda.

(3.) The Commissioner shall administer the Government of Uganda in the name and on behalf of His Majesty, and shall do and execute in due manner all things that shall belong to him said command and to the trust thereby reposed in him, according to the several powers and authorities granted or appointed to him by virtue of this Order and of his Commission, and according to such instructions as may from time to time be given to him under His Majesty's Sign Manual and Signet, or by Order of His Majesty in Council, or by His Majesty through a Secretary of State, and according to such laws as are or shall hereafter be in force in Uganda.

5. The Commissioner shall have an official seal, bearing the style of his office, and such device as a Secretary of State from time to time approves, and such seal shall be deemed the public seal of Uganda, and may be kept and used by the Commissioner for the sealing of all things whatsoever that shall pass the public seal. And, until a public seal shall be provided, the seal of the Commissioner may be used as the public seal.

6.—(1.) The Commissioner may, with the approval of the Secretary of State, by Proclamation, define any boundaries of the territories for the time being within the limits of this Order, and divide those territories into provinces or districts in such manner and with

such sub-divisions as may be convenient for purposes of administration, describing the boundaries thereof, and assigning names thereto. Under this provision the Commissioner may alter the names and divisions referred to in Article 1 of this Order.

(2.) If a question arises whether any place is or is not within the Protectorate, or within any Province, and such question does not appear to be determined by any such Proclamation, or other evidence, it shall be referred to the Commissioner, and a certificate under his hand and seal shall be conclusive on the question, and judicial notice shall be taken thereof.

7.—(1.) All rights of His Majesty in or in relation to any Crown lands shall vest in and may be exercised by the Commissioner for the time being in trust for His Majesty, or if the Secretary of State at any time with respect to all or any such lands by order under his hand so directs, in such other trustee or trustees for His Majesty as the Secretary of State may appoint.

(2.) The Secretary of State may, when he thinks fit, by a like order remove any trustee so appointed, and may appoint any new or additional trustee or trustees.

(3.) The Commissioner, or such other trustee or trustees, may make grants or leases of any Crown lands, or may permit them to be temporarily occupied, on such terms and conditions as he or they may think fit, subject to the provisions of any Ordinance.

(4.) All mines and minerals being in, under, or upon any lands in the occupation of any native tribe, or any members thereof, or of any person not possessed of the right to work such mines and minerals, shall vest in the Commissioner, or such trustee or trustees, in like manner as the mines and minerals being in, under, or upon any Crown lands.

8. The Commissioner may, as he shall see occasion, in His Majesty's name and on His behalf, grant to any offender convicted of any offence in any Court in Uganda, a free and unconditional pardon, or a pardon subject to such conditions as may be lawfully thereunto annexed, or remit or commute any sentence in whole or in part.

9. The Commissioner may, as he shall see occasion, in His Majesty's name and on His behalf remit any fines, penalties, or forfeitures which may accrue or become payable to His Majesty.

10.—(1.) A Secretary of State, or the Commissioner, subject to the directions of a Secretary of State, may, on behalf of His Majesty, appoint such public officers for the administration of Uganda, under such designations as he may think fit, and may prescribe their duties.

(2.) The Commissioner may, upon sufficient cause to him appearing, suspend from the exercise of his office in Uganda any such public officer, which suspension shall continue and have effect only until His Majesty's pleasure therein shall be made known and signified to the Commissioner.

(3.) Subject to the provisions of any Ordinance, the Commissioner may appoint, or authorise Heads of Departments to appoint,

such clerks and other subordinate officers as may be required; and unless other provision is made, all subordinate officers shall be removable by the respective officers by whom they were appointed.

11. All Ordinances, Proclamations, Regulations, Rules, or other public notifications shall be published in the Gazette, and also in such other manner, if any, as the Commissioner may direct in the case of any particular notification.

Legislation.

12.—(1.) The Commissioner may make Ordinances for the administration of justice, the raising of revenue, and generally for the peace, order, and good government of all persons in Uganda.

(2.) The Commissioner shall observe any general or special instructions of the Secretary of State with respect to the previous submission to the Secretary of State of draft Ordinances, to the making of Ordinances for particular purposes, to the amendment of Ordinances or draft Ordinances, and to other matters in relation thereto; but nothing in this provision shall affect the validity of any Ordinance.

(3.) In making Ordinances, the Commissioner shall respect existing native laws and customs except so far as the same may be opposed to justice or morality.

(4.) The Commissioner shall sign every Ordinance made by him, and shall at the first available opportunity transmit an authenticated copy thereof to the Secretary of State.

(5.) The Secretary of State may disallow any Ordinance, wholly or in part, and upon such disallowance being publicly notified in the Gazette, the provisions so disallowed shall thereupon cease to have effect, but without prejudice to anything lawfully done or suffered thereunder.

(6.) The Ordinances of each year shall be numbered consecutively, and each may be cited by its number and year, or by its short title, if any.

(7.) Where a date for the commencement of an Ordinance is not fixed in the Ordinance, it shall come into force on the day on which it is promulgated by the Commissioner.

(8.) An Ordinance may apply to Uganda any Act or law of the United Kingdom, or of any legislature of India, or of any Colony, subject to any exceptions and modifications.

(9.) The Commissioner shall, at the first available opportunity after any such rules or regulations are made under the provisions of any Ordinance, transmit an authenticated copy thereof to the Secretary of State.

(10.) An Ordinance shall not be repealable by any rules or regulations made under an Ordinance.

(11.) An Ordinance varying or affecting any Order in Council relating to the Protectorate, which is not repealed by this Order, shall not come into force unless it has been previously approved by the Secretary of State, and such approval shall be recited therein.

Application of Law.

13. The enactments described in the First Schedule to The Foreign Jurisdiction Act, 1890,* shall apply to Uganda as if it were a British Colony or possession, but subject to the provisions of this Order and to the exceptions, adaptations, and modifications following, that is to say:—

- (i.) The Commissioner is hereby substituted for the Governor of a Colony or British possession, and the High Court is hereby substituted for a Superior Court or Supreme Court, and for a Magistrate or Justice of the Peace of a Colony or British possession.
- (ii.) For the portions of the Merchant Shipping Acts, 1854 † and 1867, ‡ referred to in the said Schedule, shall be substituted Part XIII. of The Merchant Shipping Act, 1894. §
- (iii.) In section 51 of The Conveyancing (Scotland) Act, 1874, || and any enactment for the time being in force amending the same, the High Court is substituted for a Court of Probate in a Colony.
- (iv.) With respect to The Fugitive Offenders Act, 1881,—¶
 - (a.) So much of the 4th and 5th sections of the said Act as relates to sending a report of the issue of a warrant, together with the information, or a copy thereof, or to the sending of a certificate of committal and report of a case, or to the information to be given by a Magistrate to a fugitive, shall be expected, and in lieu of such information the person acting as the Magistrate shall inform the fugitive that in the British possession or Protectorate to which he may be conveyed he has the right to apply for a writ of *habeas corpus* or other like process.
 - (b.) So much of the 6th section of the said Act as requires the expiration of fifteen days before issue of warrant, shall be expected.
 - (c.) The Commissioner shall not be bound to return a fugitive offender to a British possession unless satisfied that the proceedings to obtain his return are taken with the consent of the Governor of that possession.
 - (d.) For the purposes of Part II. of the said Act, Uganda, Zanzibar, the East Africa Protectorate, and all British possessions and Protectorates in Africa south of the Equator shall be deemed to be one group of British possessions.

14. Where, under The Merchant Shipping Act, 1894, or any amending Act, anything is authorised to be done by, to, or before a British Consular officer, such thing may be done in any place in Uganda, at which there is no Consular officer, by such officer of the Protectorate as the Commissioner may appoint.

* 53 & 54 Vict. c. 37.

† 30 & 31 Vict. c. 124.

|| 37 & 38 Vict. c. 94.

† 17 & 18 Vict. c. 120.

§ 57 & 58 Vict. c. 60.

¶ 44 & 45 Vict. c. 69.

Courts of Justice.

15.—(1.) There shall be a Court of Record styled “His Majesty’s High Court of Uganda” (in this Order referred to as “The High Court”), with full jurisdiction, civil and criminal, over all persons and over all matters in Uganda.

(2.) Such civil and criminal jurisdiction shall, so far as circumstances admit, be exercised in conformity with the Civil Procedure, Criminal Procedure, and Penal Codes of India, except so far as may be otherwise provided by law.

(3.) The High Court shall sit at such place or places as the Commissioner may appoint.

(4.) The High Court shall have a seal bearing the style of the Court and a device approved by the Secretary of State; but until such a seal is provided, a stamp bearing the words “High Court of Uganda” may be used instead thereof.

16.—(1.) The High Court shall be a Court of Admiralty, and shall exercise Admiralty jurisdiction in all matters arising upon any lake or other navigable inland waters or otherwise relating to ships and shipping.

(2.) The following enactments of the Colonial Courts of Admiralty Act, 1890,* that is to say, section 2, sub-sections (2) to (4), sections 5 and 6, section 16, sub-section (3), shall apply to the High Court as if in the said sections the said Court were mentioned in lieu of a Colonial Court of Admiralty, and the Protectorate were referred to in lieu of a British possession.

(3.) Admiralty jurisdiction may be conferred by Ordinance on any Court subordinate to the High Court.

(4.) Any Ordinance varying or affecting the Admiralty jurisdiction of any Court or conferring Admiralty jurisdiction on any Court shall not come into force unless it has been previously approved by the Secretary of State, and such approval shall be recited therein.

17.—(1.) There shall be as many judges of the High Court as may from time to time be required.

(2.) Every judge shall be appointed by His Majesty and shall hold office during pleasure.

(3.) When there are more judges than one, the principal judge shall have such distinguishing title as the Secretary of State may approve.

(4.) In any case of death, illness, or absence, or in any other emergency, the Commissioner may appoint an acting judge.

18.—(1.) Courts subordinate to the High Court and Courts of special jurisdiction may be constituted by or under the provisions of any Ordinance as occasion requires.

(2.) Provision may be made by Ordinance for the hearing and determining of appeals from any such Court by the High Court or otherwise.

19. Article 10 of this Order shall apply to the appointment of

* 53 & 54 Vict. c. 27.

all judges and magistrates (other than judges of the High Court), and to registrars, and other principal officers of the High Court, in like manner as it applies to public officers; and the provisions of that Article relating to clerks and subordinate officers shall apply to all Courts.

20. In all cases, civil and criminal, to which natives are parties, every Court (a) shall be guided by native law so far as it is applicable and is not repugnant to justice and morality or inconsistent with any Order in Council or Ordinance or any regulation or rule made under any Order in Council or Ordinance, and (b) shall decide all such cases according to substantial justice without undue regard to technicalities of procedure and without undue delay.

21. If any sentence of death is pronounced by the High Court, a copy of the evidence shall be transmitted to the Commissioner, and the sentence shall not be carried into effect until confirmed by him.

22.—(1.) Subject to the provisions of any Ordinance, the High Court may, with the approval of the Commissioner, make rules for regulating the practice and procedure of the High Court and of all other Courts which may be established in Uganda.

(2.) The power to make rules under this Article shall include (a) a power to fix fees and scales of remuneration, and (b) a power to regulate the conditions on which persons may be admitted to practise as advocates or solicitors in the Courts of Uganda.

(3.) At the first available opportunity after any such rules are made, the Commissioner shall transmit an authenticated copy thereof to the Secretary of State.

23.—(1.) A Court under this Order shall not exercise any jurisdiction in any proceeding whatsoever over the Commissioner or his official or other residences, or his official or other property.

(2.) This article shall not operate in bar of any proceeding against the Commissioner in his official capacity, where it is sought to establish any liability of the Government of the Protectorate.

Removal and Deportation.

24. Where an offender convicted before any Court is sentenced to imprisonment, and the Commissioner, proceeding under section 7 of The Foreign Jurisdiction Act, 1890, authority in that behalf being hereby given to him, considers it expedient that the sentence should be carried into effect outside of the Protectorate, the place shall be a place in some part of His Majesty's dominions out of the United Kingdom, the Government whereof consents that offenders may be sent thither under this Article.

25.—(1.) Where it is shown by evidence on oath to the satisfaction of the Commissioner, that any person is conducting himself so as to be dangerous to peace and good order in Uganda, or is endeavouring to excite enmity between the people of the Protectorate and His Majesty, or is intriguing against His Majesty's

power and authority in the Protectorate, the Commissioner may, if he thinks fit, by order under his hand and official seal, order that person to be deported from the Protectorate to such place as the Commissioner may direct.

(2.) The place shall be a place in some part (if any) of His Majesty's dominions to which the person belongs, or the Government of which consents to the reception of persons deported under this Order, or to some place under the protection of His Majesty.

(3.) An appeal shall not lie against an order of deportation made under this Order.

(4.) If any person deported under this Order returns to the Protectorate without the permission in writing of the Secretary of State (which permission the Secretary of State may give), he shall be deemed guilty of an offence, and liable, on conviction, to imprisonment for any period not exceeding three months, with or without a fine, not exceeding 500 rupees; and he shall also be liable to be forthwith again deported.

(5.) The Commissioner, by order under his hand and official seal, may vary or rescind any order of deportation under this Article.

(6.) The Commissioner shall forthwith report to the Secretary of State every order made by him under this Article, and the grounds thereof, and the proceedings thereunder.

26.—(1.) Where, under this Order, a person is to be removed, or deported from the Protectorate, he shall, by warrant of the Commissioner under his hand and seal, be detained, if necessary, in custody or in prison, until a fit opportunity for his removal or deportation occurs, and then, if he is to be deported beyond sea, be conveyed through the East Africa Protectorate and put on board one of His Majesty's vessels of war, or, if none is available, then on board some other British or other fit vessel.

(2.) The warrant of the Commissioner shall be sufficient authority to the person to whom it is directed or delivered for execution and to the Commander or master of the vessel to receive and detain the person therein named, in the manner therein prescribed, and to remove and carry him to the place therein named, according to the warrant.

(3.) In case of removal for any purpose other than deportation, the warrant of the Commissioner shall be issued in duplicate, and the person executing it shall, as soon as practicable after his arrival at the place therein named, deliver, according to the warrant, with one of the duplicates of the warrant, to a constable or proper officer of police or keeper of a prison, or other proper authority or person there, the person named in the warrant, to be produced on the order of the proper Court or authority there, or to be otherwise dealt with according to law.

27. Subject to the other provisions of this Order, all expenses of removal of prisoners and others, and the expenses of deportation, and of the sending of any person to any part of His Majesty's dominions or Protectorates, including expenses of maintenance,

shall be defrayed in such manner as the Secretary of State directs.

Supplementary.

28. On the commencement of this Order, the following Orders in Council, in this Order referred to as the Africa Orders, shall cease to apply to Uganda, that is to say :—

The Africa Order in Council, 1889.*

The Africa Order in Council, 1892.†

The Africa Order in Council, 1893.‡

The Africa (Acquisition of Lands) Order in Council, 1898,§
and

The Africa Protectorates (Capital Sentences) Order in Council, 1898.||

Provided as follows :—

- (1.) Where other provision is not made by Ordinance, any law practice or procedure established by or under the African Orders, and not superseded by this Order, shall remain in force until such other provision is made.
- (2.) Every appointment of a Judge or other officer and court established and existing at the commencement of this Order shall, until other provision is made, continue to be as if this Order had not been passed.
- (3.) All legal proceedings begun under the Africa Orders and pending at the commencement of this Order shall be continued as if this Order had not been passed.
- (4.) All regulations and rules made under the Africa Orders shall remain in force until otherwise provided by Ordinance.

29. This Order shall commence and have effect as follows :—

- (1.) As to the making of any warrant or appointment, the framing of Ordinances and Rules of Procedure, the issue of instructions, and as to any other provisions necessary for bringing this Order into effect, immediately from and after the date of this Order.
- (2.) As to all other matters and provisions comprised and contained in this Order, immediately after this Order is first published in the Gazette,¶ and the time of such publication shall be deemed to be the time of the commencement of this Order.

And the Most Honourable the Marquess of Lansdowne, K.G., one of His Majesty's Principal Secretaries of State, is to give the necessary directions therein.

A. W. FitzRoy.

* Printed at pp. 1-35 above.

† Printed at p. 35 above.

‡ Printed at p. 37 above.

§ Printed in Statutory Rules and Orders 1898, p. 382.

|| Printed at p. 39 above.

¶ This Order was published in the Gazette of the Uganda Protectorate, October 15, 1902.

THE EASTERN AFRICAN PROTECTORATES (COURT OF APPEAL) ORDER
IN COUNCIL,* 1902, DATED AUGUST 11, 1902.

1902. No. 664.

[This Order is printed at p. 49 above.]

(iii) **Zanzibar.**

THE CONSULAR COURTS (ADMIRALTY) ORDER IN COUNCIL, 1894,
DATED AUGUST 7, 1894.

1894. No. 199.

[This Order is printed at p. 37 above.]

THE ZANZIBAR ORDER IN COUNCIL, 1897.*

1897. No. 576.

At the Court at Windsor, the 7th day of July, 1897.

PRESENT :

The Queen's Most Excellent Majesty.

His Royal Highness the Duke of Connaught and Strathearne.

Lord President.

Earl of Hopetoun.

Earl of Kintore.

Mr. Secretary Chamberlain.

Whereas by Treaty, grant, usage, sufferance, and other lawful means, Her Majesty the Queen has power and jurisdiction within the dominions of His Highness the Sultan of Zanzibar :

Now, therefore, Her Majesty, by virtue, and in exercise of the powers on this behalf by "The Foreign Jurisdiction Act, 1890,"† or otherwise, in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

PART I.—PRELIMINARY.

1. This Order may be cited as "The Zanzibar Order in Council, 1897."

The limits of this Order are the Islands of Zanzibar and Pemba, including the territorial waters thereof, and any islets within those waters, which islands and waters are in this Order (except when the context requires a different construction) included in the expression "Zanzibar."

* This Order was amended by the Zanzibar Order in Council, 1903, printed at p. 107 below.

† 53 & 54 Vict. c. 37.

2. This Order is divided into Parts as follows —

Part I. Preliminary.

Part II. Application and effect of Order.

Part III. Constitution of Courts.

Part IV. Application of law of British India and of the United Kingdom.

Part V. Criminal matters.

Part VI. Civil matters.

Part VII. Zanzibar and Foreign Subjects and Tribunals.

Part VIII. Miscellaneous.

Part IX. Repeal and transitory Provisions.

Schedules.

3. In this Order—

(i.) "The Secretary of State" means one of Her Majesty's Principal Secretaries of State ;

(ii.) "Treasury" means the Commissioners of Her Majesty's Treasury ;

(iii.) * "The Consul-General" means Her Majesty's Consul-General for Zanzibar ; †

(iv.) "British Subject" includes a British protected person, that is to say, a person (a) who being a native of any place beyond the dominions of the Sultan of Zanzibar, which is under the Protectorate of Her Majesty is temporarily within the limits of this Order ; or (b) who by virtue of "The Foreign Jurisdiction Act, 1890," or otherwise, enjoys Her Majesty's protection in Zanzibar ;

(v.) "Resident" means having a fixed place of abode in Zanzibar ;

(vi.) "Zanzibar subject" means a subject of the Sultan of Zanzibar ;

(vii.) "Foreigner" means a subject or citizen of a State in amity with Her Majesty, other than Zanzibar ;

(viii.) "Zanzibar or foreign Court" means a Court of the Government of Zanzibar, or of any foreign State in amity with Her Majesty, exercising lawful jurisdiction in Zanzibar, and includes every member or officer of such a Court ;

(ix.) "Treaty" includes any Convention, Agreement, or Arrangement, made by or on behalf of Her Majesty with any State or Government, King, Chief, people, or tribe, whether the Sultan of Zanzibar is or is not a party thereto ;

(x.) "Administration" means (unless a contrary intention appears from the context) letters of administration, including the same with will annexed, or granted for special or limited purposes, or limited in duration ;

(xi.) "Ship" includes any vessel used in navigation, however propelled, with her tackle, furniture, and apparel, and any boat or other craft ;

(xii.) "Offence" means any act or omission made punishable by any law for the time being in force ;

* See the Zanzibar Order in Council, 1903, printed at p. 107 below.

† The remainder of this definition was repealed by the Zanzibar Order in Council, 1903, printed at p. 107 below.

- (xiii.) "Imprisonment" means imprisonment of either description, as defined in the Indian Penal Code;
- (xiv.) "Month" means calendar month;
- (xv.) "Will" means will, codicil, or other testamentary instrument;
- (xvi.) "Oath" or "affidavit" includes affirmation or declaration;
- (xvii.) "Person" includes Corporation;
- (xviii.) Words importing the plural or the singular may be construed as referring to one person or thing, or to more than one person or thing, and words importing the masculine as referring to females (as the case may require).

4.—(1.) Where this Order confers a power or imposes a duty, the power may be exercised and the duty shall be performed from time to time as occasion requires.

(2.) Where this Order confers a power or imposes a duty on the holder of an office, then, unless a contrary intention appears, the power may be exercised and the duty shall be performed by the holder of the office for the time being, or by a person duly appointed to act for him.

(3.) Where this Order confers a power to make rules, regulations, or orders, the power shall be construed as including a power exercisable in the like manner, and subject to the like approval and conditions (if any), to rescind, revoke, amend, or vary the rules, regulations, or orders.

PART II.—APPLICATION AND EFFECT OF ORDER.

5.—(1.) This Order extends to British subjects and to foreigners with respect to whom the Government whose subjects they are has, by Treaty or otherwise, agreed with Her Majesty for, or consented to, the exercise of power or authority by Her Majesty; and the expression "person subject to this Order" shall be construed accordingly.

(2.) This Order also extends to (a) the property and all personal or proprietary rights and liabilities in Zanzibar of persons subject to this Order; (b) British ships, with their boats, and the property on board thereof; and (c) foreign ships belonging to persons who are, or if they were in Zanzibar would be, persons subject to this Order, so, however, that jurisdiction over such foreign ships shall not be exercised otherwise than according to the practice of the High Court in England in the exercise of jurisdiction over foreign ships.

(3.) This Order also extends, in the cases and according to the conditions specified in this Order, to Zanzibar subjects and to foreigners not otherwise subject to this Order.

6. All Her Majesty's jurisdiction exercisable in Zanzibar for the hearing and determination of suits, or for the maintenance of order, or for the control or administration of persons or property, or in relation thereto, shall be exercised under and according to the provisions of this Order, so far as this Order extends and applies.

PART III.—CONSTITUTION OF COURTS.

7.*—(1.) There shall be, and there is, hereby established, a Court styled "Her Britannic Majesty's Court for Zanzibar," hereinafter referred to also as "the Court for Zanzibar" and "the Court."

(2.) Subject to the other provisions of this Order, Her Majesty's jurisdiction in Zanzibar shall be, and is hereby, vested in the Court for Zanzibar.

(3.) The members of the Court shall be the Judge and the Assistant Judge, but as respects the Assistant Judge, subject to the provisions of this Order and to such exceptions and directions as the Secretary of State from time to time thinks fit to make.

(4.) A person appointed to be Judge or Assistant Judge must be a member of the bar of England, Scotland, or Ireland, and must be of not less than five years' standing on appointment as Judge, and of not less than three years' standing on appointment as Assistant Judge.

(5.) The Judge and the Assistant Judge shall be appointed by Her Majesty by Warrant under Her Royal Sign Manual. Each of them shall hold office during the pleasure of Her Majesty, and, in the event of a revocation of his warrant, until such revocation is notified to him by the Secretary of State.

(6.) In case of the illness or temporary absence of the Judge, the Consul-General may appoint either a person qualified to be appointed Judge, or the Assistant Judge, or a person appointed to hold a Subordinate Court under this Order, or a commissioned Consular officer, to act as Judge.

(7.) In case of the illness or temporary absence of the Assistant Judge, or of his temporary appointment as Judge, the Consul-General may appoint either a person qualified to be appointed Assistant Judge, or a person appointed to hold a Subordinate Court under this Order, or a commissioned Consular officer, to act as Assistant Judge.

8. The Court shall have a seal bearing the style of the Court and a device approved by the Secretary of State, but until such a seal is provided, a stamp bearing the words "Court for Zanzibar" may be used instead thereof.

9. Subject to the directions of the Secretary of State, the Judge † may appoint such and so many persons to be Registrars, Clerks, Bailiffs, Interpreters, and other officers of the Court as he thinks fit, and remove from office any person so appointed.

Any Registrar of the Court, and any other officer of the Court designated in this behalf by the Judge, † may administer oaths, and take affidavits, declarations, and affirmations.

10. The Secretary of State may, if he thinks fit, appoint Subordinate Courts to be held at places in Zanzibar, and may appoint

* Provision was made for a Second Assistant Judge by the Zanzibar Order in Council, 1903, printed at p. 107 below.

† The word "Judge" was substituted for the word "Consul-General" by the Zanzibar Order in Council, 1903, printed at p. 107 below.

a competent person to hold any such Court, under such designation and with such remuneration as he may direct, and may assign to any such Court such of the powers and jurisdiction by this Order conferred on the Court for Zanzibar, to be exercised by the Court so constituted, as he may think fit, and may assign the district in and for which each such Court shall act, and may determine the description and number of the officers to be attached to any such Court, and the mode of their appointment and removal and their duties and remuneration and any matters incident to any of the above-mentioned purposes.

Any person appointed under the provisions of this Article shall be removable by authority of the Secretary of State.

PART IV.—APPLICATION OF LAW OF BRITISH INDIA AND OF THE UNITED KINGDOM.

11.*—(a.) Subject to the other provisions of this Order, and to any Treaties for the time being in force relating to Zanzibar, Her Majesty's criminal and civil jurisdiction in Zanzibar shall, so far as circumstances admit, be exercised on the principles of, and in conformity with, the enactments for the time being applicable as hereinafter mentioned of the Governor-General of India in Council, and of the Governor of Bombay in Council, and according to the course of procedure and practice observed by, and before, the Courts in the Presidency of Bombay beyond the limits of the ordinary original jurisdiction of the High Court of Judicature at Bombay according to their respective jurisdiction and authority, and so far as such enactments, procedure, and practice are inapplicable, shall be exercised under, and in accordance with the common and statute law of England in force at the commencement of this Order.

(b.) The enactments described in the First Schedule to this Order are hereby made applicable to Zanzibar.

(c.) Any other existing or future enactments of the Governor-General of India in Council, or of the Governor of Bombay in Council, shall also be applicable to Zanzibar, but shall not come into operation until such times as may in the case of any such enactments respectively be fixed by the Secretary of State.

(d.) Any Act of the Governor-General of India in Council, or of the Governor of Bombay in Council, whether passed before or after the commencement of this Order, amending or substituted for any Act of either of those Legislatures which is by or under this Order made applicable to and brought into operation in Zanzibar, shall, subject to the provisions of this Article, also apply to Zanzibar.†

(e.) For the purpose of facilitating the application of any such enactments as before mentioned—

(i.) The Court may construe any such enactment, with such

* See the Zanzibar Order in Council, 1903, printed at p. 107 below.

† See footnote to Schedule, p. 107.

- alterations not affecting the substance, as may be necessary or proper to adapt the same to the matter before the Court ;
- (ii.) The Secretary of State may by order direct by what authority any jurisdiction, powers, or duties incident to the operation of any such enactment, and for the exercise or performance of which no convenient provision has been otherwise made, shall be exercised or performed ;
 - (iii.) The Secretary of State may by order modify, for the purposes of this Order, any provision of any of the before-mentioned enactments, or of any amending or substituted enactment *relating to civil or criminal procedure, or to procedure in bankruptcy* ;*
 - (iv.) Any order of the Secretary of State made in pursuance of this Article shall be published in Zanzibar and in India, in such manner as he directs, and shall have effect as from a date to be specified in the order.

12. The enactments described in the First Schedule to "The Foreign Jurisdiction Act, 1890," shall apply to Zanzibar as if Zanzibar were a British Colony or possession, but subject to the provisions of this Order and to the exceptions, adaptations, and modifications following, that is to say :—

- (i.) The Consul-General is hereby substituted for the Governor of a Colony or British possession, and the Court for Zanzibar is hereby substituted for a Superior Court or Supreme Court and for a Magistrate or Justice of the Peace of a Colony or British possession.
- (ii.) For the portions of the Merchant Shipping Acts, 1854,† and 1867,‡ referred to in the said Schedule, shall be substituted Part XIII. of "The Merchant Shipping Act, 1894."§
- (iii.) In section 51 of "The Conveyancing (Scotland) Act, 1874,"|| and any enactment for the time being in force amending the same, the Court for Zanzibar is substituted for a Court of Probate in a Colony.
- (iv.) With respect to "The Fugitive Offenders Act, 1881,"¶
 - (a.) So much of the 4th and 5th sections of the said Act as relates to sending a report of the issue of a warrant, together with the information, or a copy thereof, or to the sending of a certificate of committal and report of a case, or to the information to be given by a Magistrate to a fugitive, shall be excepted, and in lieu of such information, the person acting as the Magistrate shall inform the fugitive that in the British possession or Protectorate to which he may be conveyed he has the right to apply for a writ of *habeas corpus* or other like process.
 - (b.) So much of the 6th section of the said Act as requires the expiration of fifteen days before issue of a warrant shall be excepted.

* The words in italics were repealed by the Zanzibar Order in Council, 1903, printed at p. 107 below.

† 17 & 18 Vict. c. 104.

|| 37 & 38 Vict. c. 94.

‡ 30 & 31 Vict. c. 124.

¶ 44 & 45 Vict. c. 69.

§ 57 & 58 Vict. c. 60.

(c.) The Consul-General shall not be bound to return a fugitive offender to a British possession unless satisfied that the proceedings to obtain his return are taken with the consent of the Governor of that possession.

(d.) For the purposes of Part II. of the said Act, Zanzibar, the East Africa and Uganda Protectorates, British India, Mauritius, and all British possessions and Protectorates in Africa south of the Equator shall be deemed to be one group of British possessions.

13.* The Secretary of State may, by Order published in such manner as he directs, declare that any of the Laws or Ordinances for the time being in force in any African possession of Her Majesty, and not inconsistent with this Order, shall have effect and be administered in Zanzibar with such modifications or adaptations as may be necessary, and thereupon such Laws or Ordinances, as so modified or adapted, shall have effect as if they had been applied by this Order.

PART V —CRIMINAL MATTERS.

14. Subject to the other provisions of this Order, the Code of Criminal Procedure and the other enactments relating to the administration of criminal justice in India, for the time being applicable to Zanzibar, shall have effect as if Zanzibar were a district in the Presidency of Bombay; and the Assistant Judge shall be deemed to be the Magistrate of the district; the Judge shall be deemed to be the Sessions Judge; The High Court of Judicature at Bombay (hereinafter called the High Court of Bombay) shall be deemed to be the High Court; and the powers both of the Governor-General in Council and of the Local Government under those enactments shall be exercisable by the Secretary of State, or, with his previous or subsequent assent, by the Governor-General of India in Council.

15. When any person is committed to the High Court of Bombay for trial, the Consul-General may, under and in accordance with the provisions of section 6 of "The Foreign Jurisdiction Act, 1890," send him to Bombay for trial; and in such case the Court may, if it thinks fit, bind over such of the proper witnesses as are British subjects, or any of them, in their own recognisances, to appear and give evidence on the trial.

16. If any person subject to this Order smuggles or imports into or exports from Zanzibar any goods whereon any duty is charged or payable to the Government of Zanzibar, with intent to evade payment of the duty, he shall be punished with imprisonment for a term which may extend to two months, or with fine which may extend to 1000 rupees, or with both.

17. Any act which if done in British India would be an offence against the law for the time being in force in British India relating

* See the Zanzibar Order in Council, 1903, printed at p. 107 below.

to trade-marks, merchandise-marks, copyright, designs, or inventions, shall, if done in Zanzibar by a person subject to this Order, be an offence, whether the person in relation to whose property or right such act is done is, or is not, subject to this Order; and any person convicted of such offence shall be punished with imprisonment for a term which may extend to two months, or with a fine which may extend to 1000 rupees, or with both.

18.—(1.) In cases of murder or culpable homicide, if either the death or the criminal act which wholly or partly caused the death happened in Zanzibar, a Court acting under this Order shall have the like jurisdiction over any person subject to this Order who is charged either as a principal offender or as an abettor, as if both the criminal act and the death had happened in Zanzibar.

(2.) In the case of any offence committed on the high seas, or within the Admiralty jurisdiction, by any person subject to this Order, who at the time of committing such offence was on board a British ship, or on board a foreign ship to which he did not belong, a Court acting under this Order shall have jurisdiction as if the offence had been committed within Zanzibar.

(3.) In cases tried under this Article no different sentence can be passed from the sentence which could be passed in England if the offence were tried there.

19.—(a.) The Consul-General may, if he thinks fit, by general order, prescribe the manner in which and the places in Zanzibar at which sentences of imprisonment are to be carried into execution.

(b.) The Consul-General may, if he thinks fit, in any case, by warrant under his hand and official seal, cause an offender convicted and sentenced to imprisonment before the Court to be sent and removed to, and imprisoned in, any place in Zanzibar or in the East Africa Protectorate.

20. Where an offender convicted before the Court is sentenced to imprisonment, and the Consul-General, proceeding under section 7 of "The Foreign Jurisdiction Act, 1890," authority in that behalf being hereby given to him, considers it expedient that the sentence should be carried into effect within Her Majesty's dominions, the place shall be a place in some part of Her Majesty's dominions out of the United Kingdom the Government whereof consents that offenders may be sent thither under this Article.

21.—(1.) Where it is shown by evidence on oath, to the satisfaction of the Consul-General, that any person subject to this Order has committed, or is about to commit, an offence against this Order, or is otherwise conducting himself so as to be dangerous to peace and good order in Zanzibar, or is endeavouring to excite enmity between the Sultan or people of Zanzibar and Her Majesty, or is intriguing against Her Majesty's power and authority in Zanzibar, the Consul-General may, if he thinks fit, by order under his hand and official seal, prohibit that person from being in Zanzibar during any time therein specified, not exceeding two years.

(2.) If the person named in the order of prohibition fails to obey, or acts in contravention of, the order—

- (i.) He shall be guilty of an offence against this Order, and, on conviction thereof, shall be liable to imprisonment for any time not exceeding two years, without prejudice to the operation of the order of prohibition ;
- (ii.) Whether the offender has been convicted of, or imprisoned for, that offence or not, the Consul-General may, if he thinks fit, by order under his hand and official seal, authorise and direct that he be taken into custody, and be removed in custody to some place named in the order of removal, being a place to which a person can under this Order be deported beyond the limits specified in the order of prohibition ;
- (iii.) The offender shall be taken into custody and removed accordingly, and in such removal force may be used if necessary ; and he shall be discharged from custody at the place named in the order of removal.

(3.) In any case in which the Consul-General can, under this Order, make an order of prohibition, he may, if he thinks fit, in lieu of such order, make and execute an order of deportation in like manner, and with all the like consequences, as an order of deportation can under this Order be made and executed in the case of a person who, after conviction of an offence, has failed to give security required for good behaviour.

(4.) An appeal shall not lie against an order of prohibition, or removal, or deportation made under this Order :

(5.) The Consul-General, by order under his hand and official seal, may vary any order of prohibition (not extending the duration thereof) and may revoke any order of prohibition or removal.

(6.) The Consul-General shall forthwith report to the Secretary of State every order made by him under this Article, and the grounds thereof, and the proceedings thereunder.

22. Where a person subject to this Order is convicted of an offence, the Court before which he is convicted may, if he thinks fit, require him to give security to the satisfaction of the Court for his future good behaviour, and for that purpose may, if it thinks fit, cause him to come or be brought before the Court.

23.—(a.) If any person required by an order under the last preceding Article, or under the law relating to criminal procedure for the time being in force, to give security for good behaviour or for keeping the peace, fails to do so, the Court may, if it thinks fit, with the approval of the Consul-General, order that he be deported from Zanzibar.

(b.) The Court, on making an order of deportation, shall forthwith report to the Consul-General the order and the grounds thereof.

(c.) Thereupon the person ordered to be deported shall be, as soon as practicable, and in the case of a person convicted, either after execution of the sentence, or while it is in course of execution, removed in custody, under the warrant of the Consul-General, to the place named in the warrant.

(d.) The place shall be a place in that part (if any) of Her Majesty's dominions out of the United Kingdom to which the person belongs,

or in some other part of those dominions the Government whereof consents to the reception therein of persons deported under this Order, or a place under the Protectorate of Her Majesty, or in the country out of Her Majesty's dominions to which the person belongs.

(e.) The Court, on making an order of deportation, may, if it thinks fit, order the person to be deported to pay all or any part of the expenses of his deportation, to be fixed by the Court in the order.

(f.) The Consul-General shall forthwith report to the Secretary of State every order of deportation made under this Order, and the grounds thereof and the proceedings thereunder.

(g.) If a person deported under this Order returns to Zanzibar without permission in writing of the Consul-General or Secretary of State, he shall be punished with imprisonment for a term which may extend to two months, or with fine which may extend to 1000 rupees, or with both.

(h.) He shall also be liable to be again deported under the original or a new order and a fresh warrant of the Consul-General.

24.—(a.) Where a person entitled to appeal to the High Court of Bombay from any Judgment or order passed in the exercise of criminal jurisdiction under this Order desires so to appeal, he shall present his Petition of appeal to the Court for Zanzibar, and the Petition shall with all practicable speed be transmitted by the Court for Zanzibar to the High Court, with certified copies of the charge (if any) and proceedings, of all documentary evidence admitted or tendered, of the depositions, of the notes of the oral testimony, and of the Judgment or order, and any argument on the Petition of appeal that the appellant desires to submit to the High Court.

25. The Court for Zanzibar shall postpone the execution of the sentence pending the appeal, and shall, if necessary, commit the person convicted to prison for safe custody, or detain him in prison for safe custody, or shall admit him to bail, and may take security, by recognisance, deposit of money, or otherwise, for his payment of any fine.

26.—(a.) Where, under this Order, a person is to be sent, or removed, or deported from Zanzibar, he shall, by warrant of the Consul-General under his hand and seal, be detained, if necessary, in custody, or in prison, until a fit opportunity for his removal for deportation occurs, and then be put on board one of Her Majesty's vessels of war, or, if none is available, then on board some other British or other fit vessel.

(b.) The warrant of the Consul-General shall be sufficient authority to the person to whom it is directed or delivered for execution, and to the Commander or master of the vessel, to receive and detain the person therein named, in the manner therein prescribed, and to send, or remove, and carry him to the place therein named, according to the warrant.

(c.) In case of sending or removal for any purpose other than deportation, the warrant of the Consul-General shall be issued

in duplicate, and the person executing it shall, as soon as practicable after his arrival at the place therein named, deliver, according to the warrant, with one of the duplicates of the warrant, to a constable, or proper officer of police or keeper of a prison, or other proper authority or person there, the person named in the warrant, to be produced on the order of the proper Court or authority there, or to be otherwise dealt with according to law.

27. When a warrant or order of arrest is issued by a competent judicial authority in the East Africa Protectorate or in the Uganda Protectorate for the apprehension of a person who is accused of crime committed in that Protectorate, and who is, or is supposed to be, within Zanzibar, and that warrant or order is produced to any Court acting under this Order, the Court may back the warrant or order, and the same, when so backed, shall be sufficient authority to any person to whom it was originally directed, and also to any constable or officer of the Court by whom it is backed, and to any person named on the back of the warrant or order, to apprehend the accused person at any place within the limits of this Order and to carry him to and deliver him up within the jurisdiction of the authority issuing the warrant or order.

28. The Consul-General and every commissioned Consular Officer respectively, shall have in and for Zanzibar all the power and jurisdiction appertaining to the office of a Justice of the Peace.

PART VI.—CIVIL MATTERS.

29. Subject to the other provisions of this Order, the Code of Civil Procedure, "The Bombay Civil Courts Act, 1869," the Indian Succession Act, and the other enactments relating to the administration of civil justice for the time applicable to Zanzibar, shall have effect as if Zanzibar were a district in the Presidency of Bombay: the Judge shall be deemed to be the District Judge, and the Assistant Judge, the Joint District Judge, of the district, and the Court for Zanzibar, the District Court or Principal Civil Court of Original Jurisdiction in the district; the High Court of Bombay shall be deemed to be the highest Civil Court of Appeal for the district, and the Court authorised to hear appeals from and to revise the decisions of the District Court; and the powers, both of the Governor-General in Council and the Local Government, under those enactments shall be exercisable by the Secretary of State, or, with his previous or subsequent assent, by the Governor-General of India in Council.

30. The Court for Zanzibar shall, for and within Zanzibar, and for vessels and persons coming within Zanzibar, have all such jurisdiction as is for the time being conferred on the Court by "The Consular Courts (Admiralty) Order in Council, 1894,"* or by any other Order in Council under section 12 of "The Colonial Courts of Admiralty Act, 1890."†

* Printed at p. 37 above.

† 53 & 54 Vict. c. 27.

The Assistant Judge shall be the Admiralty Registrar of the Court, but when he acts as Judge the Consul-General may appoint a competent person to be Acting Registrar.

31.*—(a.) The Court shall endeavour to obtain, as early as may be, notice of the death of every person subject to this Order dying *in Zanzibar*† and leaving property to be administered, and all such information as may serve to guide the Court with respect to the securing and administration of his property.

(b.) On receiving notice of the death of such a person, the Court shall put up a Notice thereof at the Court-house, and shall keep the same there until probate or administration is granted, or, where it appears to the Court that probate or administration will not be applied for, or cannot be granted, for such time as the Court thinks fit.

(c.) The Court shall, where the circumstances of the case appear so to require, as soon as may be, take possession of the property *in Zanzibar*† of the deceased, or put it under the seal of the Court (in either case, if the nature of the property or other circumstances so require, making an inventory), and so keep it until it can be dealt with according to law.

(d.) All expenses incurred by the Court in so doing shall be the first charge on the property of the deceased, and the Court shall, by sale of the property or part thereof, or otherwise, provide for the discharge of these expenses.

32. When a person subject to this Order dies *in Zanzibar*† intestate, his property shall, until administration is granted, vest in the Judge.

33. If a person named executor in a will, to the establishment of whose title, as such, it is necessary to obtain probate of that will, takes possession, of and administers or otherwise deals with, any part of the property of the deceased, and does not obtain probate within one month after the death, or after the termination of any proceeding respecting probate or administration, he shall be liable to be punished with fine, which may extend to 1000 rupees.

34. If any person, other than the person named executor, or the administrator, or a person entitled to represent the deceased without obtaining probate or letters of administration, or an officer of the Court, takes possession of and administers, or otherwise deals with, any part of the property of the deceased, he shall, as soon as practicable, notify the fact and the circumstances to the Court, and shall furnish to the Court all such information as the Court requires, and shall conform to any directions of the Court in relation to the custody, disposal, or transmission of the property, or the proceeds thereof, and, in case of any contravention of this Article, he shall be liable to be punished with fine, which may extend to 1000 rupees.

* See the Zanzibar Order in Council, 1903, printed at p. 107 below.

† The words in italics were repealed by the Zanzibar Order in Council, 1903, printed at p. 107 below.

35.—(1.) When the peculiar circumstances of the case appear to the Court so to require, for reasons recorded in its proceedings, the Court may, if it thinks fit, of its own motion, or otherwise, grant letters of administration to an officer or practitioner of the Court.

(2.) The person so appointed shall act under the direction of the Court, and shall be indemnified thereby; and if he is a practitioner shall not act otherwise than as administrator in relation to the estate.

(3.) He shall publish such notices, if any, as the Court thinks fit, in Zanzibar, Bombay, the United Kingdom, and elsewhere.

(4.) The Court shall require and compel him to file, in the proper office of the Court, his accounts of his administration, at intervals, not exceeding three months.

(5.) The accounts shall be audited under the direction of the Court.

(6.) All expenses incurred in behalf of the Court in execution of this Article shall be the first charge on the estate of the deceased in Zanzibar; and the Court shall, by the sale of the estate, or otherwise, provide for the discharge of those expenses.

36.—(a.) Where any person entitled to appeal to the High Court of Bombay from any Decree or order made by the Court for Zanzibar in the exercise of civil jurisdiction under this Order desires so to appeal, he shall present his Memorandum of Appeal to the Court for Zanzibar, and, subject to the provisions hereinafter contained, that Court shall receive the same for transmission to the High Court in manner hereinafter provided.

(b.) The appellant shall, within such time as the Court directs, give security to the satisfaction of the Court, and to such amount as the Court thinks reasonable, for prosecution of the appeal, and for payment of any costs that may be ordered by the High Court of Bombay on the appeal to be paid by the appellant.

(c.) The appellant shall pay into the proper office of the Court for Zanzibar such sum as the Court thinks reasonable, to defray the expense of the making up and transmission to the High Court of Bombay of the record.

37. The appellant may, with his Memorandum of Appeal, file any argument which he desires to submit to the High Court of Bombay in support of the appeal.

38.—(a.) The Memorandum of Appeal and the argument (if any) shall be served on such persons as respondents as the Court for Zanzibar directs.

(b.) A respondent may, within seven days after service, file in the Court for Zanzibar such arguments as he desires to submit to the High Court of Bombay against the appeal.

(c.) Copies thereof shall be furnished by the Court for Zanzibar to such persons as that Court thinks fit.

39.—(a.) On the expiration of the time for the respondent filing his argument, the Court shall, without the application of any party, make up the record of appeal, which shall consist of the Memorandum of Appeal and the arguments (if any), and certified

copies of the following, namely, the planit, written statements (if any), all proceedings, all written and documentary evidence admitted or tendered, the notes of the oral evidence, the Judgment, and the Decree or order.

(b.) The several pieces shall be fastened together consecutively numbered, and the whole shall be secured by the seal of the Court, and be forthwith forwarded to the High Court of Bombay.

(c.) The Court may, if for special reasons they think fit, send any portion of the documentary evidence in original to the High Court.

PART VII.—ZANZIBAR AND FOREIGN SUBJECTS AND TRIBUNALS.

40.—(a.) The Court for Zanzibar shall hear and determine all civil questions, claims, or disputes arising between any Zanzibar subject and any person subject to this Order in which the former is plaintiff or complainant.

(b.) The High Court of Bombay shall not exercise jurisdiction in any such suit.

41.—(a.) Where it is desired to commence a suit in which one party is, and the other party is not, a person subject to this Order, the Court shall entertain the same, and shall hear and determine it.

(b.) Provided that the person not subject to this Order, if so required by the Court, first obtains and files in the proper office of the Court the consent, in writing, of the competent authority (if any) on behalf of his own nation, to his submitting, and that he does submit, to the jurisdiction of the Court, and, if required by the Court, gives security to the satisfaction of the Court, and to such reasonable amount as the Court thinks fit, by deposit or otherwise, to pay fees, costs, and damages, and abide by, and perform, the decision to be given by the Court or on appeal.

(c.) A cross-suit shall not be brought in the Court against a plaintiff, being a person not subject to this Order, who has submitted to the jurisdiction, by a defendant without leave of the Court first obtained; but the Court may, as a condition of entertaining the plaintiff's suit, require his consent to any cross-suit or matter of set-off being entertained by the Court.

(d.) The Court, before giving leave, may require proof from the defendant that his claim arises out of the matter in dispute, and that there is reasonable ground for it and that it is not made for vexation or delay.

(e.) Nothing in this Article shall prevent the defendant from bringing, in the Court, against a person not subject to this Order, after the termination of the suit in which the latter is plaintiff, any suit which he might have brought in the Court if no provision restraining cross-suits had been inserted in this Order.

(f.) Where a person not subject to this Order obtains in the Court an order against a defendant being a person subject to this Order, and in another suit the latter is plaintiff and the former is defendant, the Court may, if it thinks fit, on the application of the first-mentioned defendant, stay the enforcement of the

order pending that other suit, and may set off any amount ordered to be paid by one party in one action against any amount ordered to be paid by the other party in the other action.

(g.) Where the plaintiff, being a person not subject to this Order, obtains an order in the Court against two or more defendants jointly, being persons subject to this Order, and in another suit one of them is a plaintiff and the first-mentioned plaintiff is defendant, the Court may, if it thinks fit, on application, stay the enforcement of the order pending that other action, and may set off any amount ordered to be paid by one party in one action against any amount ordered to be paid by the other party in the other action, without prejudice to the right of the person plaintiff in the second suit to obtain contribution from his co-defendants under the joint liability.

42.—(a.) Where it is proved that the attendance of any person subject to this Order to give evidence, or for any other purpose connected with the administration of justice, is required before any Court of Justice in Zanzibar other than a Court established by this Order, the Court for Zanzibar may, if it thinks fit, in a case and in circumstances in which the Court for Zanzibar would require the attendance of that person before the Court, order that he do attend as required. The order may be made subject to conditions as to payment or tender of expenses or otherwise.

(b.) If the person ordered to attend, having reasonable notice of the time and place at which he is required to attend, fails to attend accordingly, and does not excuse his failure to the satisfaction of the Court for Zanzibar, or if when so attending to give evidence he wilfully gives false evidence, or refuses to be sworn or to give evidence, he shall, independently of any other liability, be liable to be punished with imprisonment for a term which may extend to two months, or with fine which may extend to 1000 rupees, or with both.

43. If a person subject to this Order—

- (i.) Wilfully obstructs, by act or threat, any Court in Zanzibar not established under this Order in the performance of its duty; or
- (ii.) Within or close to the room or place where such a Court is sitting wilfully misbehaves in a violent, threatening, or disrespectful manner, to the disturbance of the Court or to the intimidation of suitors or others resorting to the Court; or
- (iii.) Wilfully insults any member or officer of such a Court in his going to, or returning from, any place of sitting or office of the Court;

He shall, on conviction before the Court for Zanzibar, be liable to be punished with imprisonment for a term which may extend to two months, or with fine which may extend to 1000 rupees, or with both.

44.—(a.) Every agreement for reference to arbitration between a person subject to this Order on the one hand, and a person not subject to this Order on the other hand, may, on the application of any party, be filed for execution in the proper office of the Court.

(b.) The Court shall thereupon have authority to enforce the agreement and the award made thereunder, and to control and regulate the proceedings before and after the award, in such manner and on such terms as the Court may think fit.

(c.) Provided that the person not subject to this Order first obtains and files, in the proper office of the Court, the consent, in writing, of the competent authority (if any), on behalf of his own nation, to his submitting, and that he does submit, to the jurisdiction of the Court, and, if required by the Court, gives security to the satisfaction of the Court, and to such reasonable amount as the Court thinks fit, by deposit or otherwise, to pay fees, damages, costs, and expenses, and abide by and perform the award.

(d.) If a person subject to this Order wilfully gives false evidence in an arbitration, he shall on conviction before the Court for Zanzibar be liable to the same punishment as if he were convicted of giving false evidence in a proceeding in that Court.

PART VIII.—MISCELLANEOUS.

45.—(1.) Notwithstanding anything in this Order, the Court for Zanzibar shall not exercise any jurisdiction in any proceeding whatsoever over Her Majesty's Consul-General, or his official or other residences, or his official or other property.

(2.) Notwithstanding anything in this Order, the Court for Zanzibar shall not exercise, except with the consent of the Consul-General, signified in writing to the Court, any jurisdiction in a civil action or proceeding over any person attached to or being a member of Her Majesty's Consulate-General in Zanzibar, or being a domestic servant of the Consul-General.

(3.) If, in any case under this Order, it appears to the Court for Zanzibar that the attendance of the Consul-General, or of any person attached to or being a member of Her Majesty's Consulate-General in Zanzibar, or being a domestic servant of the Consul-General, to give evidence before the Court, is requisite in the interests of justice, the Court for Zanzibar may address to the Consul-General a request in writing for such attendance.

(4.) A person attending to give evidence before the Court shall not be compelled or allowed to give any evidence or produce any document if, in the opinion of the Consul-General, signified by him personally or in writing to the Court, the giving or production thereof would be injurious to Her Majesty's service.

46. Subject to the approval of the Secretary of State, the Court may frame Rules of Procedure and other Rules, consistent with this Order, for the better execution of the provisions herein contained in respect of civil or criminal proceedings, and for regulating the conditions on which persons other than parties may be permitted to practise as advocates or solicitors in any Court, or for suspending or excluding (subject to a right of appeal to the Secretary of State) such persons from practice in case of misconduct: Provided that

any scale of remuneration fixed by such rules shall have been sanctioned by the Treasury.

47.* The Consul-General may make Regulations (to be called Queen's Regulations) for the following purposes, that is to say:—

- (i.) For the peace, order, and good government of British subjects, and other persons subject to this Order, in relation to matters not provided for in this Order.
- (ii.) For securing the observance of any Treaty for the time being in force relating to Zanzibar, or of any native or local law or custom.
- (iii.) For requiring Returns to be made of the nature, quantity, and value of articles exported from or imported into Zanzibar, or any part thereof, by or on account of any British subject or person subject to this Order, and for prescribing the times and manner at or in which, and the persons by whom, such Returns are to be made.

Any Regulations under this Article may provide for forfeiture of any goods, receptacles, or things in relation to which, or to the contents of which, any breach is committed of such Regulations, or of any Treaty, or any native or local law or custom, the observance of which is provided for by the Regulations.

Any Regulations under this Article shall, when allowed by the Secretary of State, and published as he directs, have effect as if contained in this Order: Provided that in case of urgency declared in any such Regulations, the same shall take effect before such allowance, and shall continue to have effect unless and until they are disallowed by the Secretary of State, and until notification of such disallowance is received and published by the Consul-General, and such disallowance shall be without prejudice to anything done or suffered under such Regulations in the meantime.

Any breach of the Regulations shall be an offence against this Order, and any person guilty thereof, shall on conviction be liable to a fine which may extend to 1000 rupees, or to imprisonment which may extend to two months, or both, in addition to any forfeiture as aforesaid.

48. The Consul-General may also make Regulations for the governance, visitation, care, and superintendence of prisons in Zanzibar, and for the infliction of corporal or other punishment on prisoners committing offences against those Regulations.

Any Regulations under this Article shall, when allowed by the Secretary of State, have effect, as if contained in this Order, and copies thereof shall be exhibited in every prison to which they apply in such manner as the Consul-General may direct.

Any breach of Regulations under this Article, committed by any officer of a prison, or by any other person (not being a prisoner), shall be punishable in like manner as a breach of Queen's Regulations, under the last preceding Article.

49.—(a.) A non-testamentary instrument to which a British subject is a party, executed after the 28th day of November, 1893,

* See the Zanzibar Order in Council, 1903, printed at p. 107 below.

and purporting or operating to create, declare, assign, limit, or extinguish, whether in present or in future, any right, title, or interest, whether vested or contingent to, in, or over immovable property situate in Zanzibar, shall not affect any immovable property comprised therein, or be received as evidence of any transaction affecting that property, unless it has been registered at such time and place and in such manner as may be prescribed by Rules made by the Consul-General and approved by the Secretary of State, and for the time being in force.

(b.) Provided that nothing in this Article shall make any instrument inadmissible in evidence in any criminal proceeding.

50.—(a.) The Consul-General may, with the approval of the Secretary of State, and concurrence of the Treasury, make rules imposing fees leviable in respect of any proceedings in, or processes issued out of, any Court established under this Order, and in respect of the registration of any instrument under this Order.

(b.) But the Court may in any case if it thinks fit, on account of the poverty of a party, or for any other reason, dispense in whole or in part with the payment of any fee chargeable in respect of such matter:

(c.) The Court shall in every such case forthwith report the dispensation to the Consul-General, and he shall give such directions thereon as he thinks fit.

(d.) Nothing in this Order shall affect any Order in Council prescribing a Table of Fees to be taken by Consular officers; and, where a fee is taken under that Order, no fee shall be taken in respect of the same matter under this Order.

51.—(a.) All fees, charges, expenses, costs, fines, damages, and other money payable under this Order, or under any law made applicable by this Order, may be enforced under order of the Court by attachment and sale of goods, and, in case of deficiency, by imprisonment, which may extend to one month.

(b.) Any bill of sale or mortgage, or transfer of property, made with the view of avoiding such attachment or sale, shall not be effectual to defeat the provisions of this Order.

(c.) All fees, penalties, fines, and forfeitures levied under this Order, except such as may under Treaty be paid to the Sultan of Zanzibar, shall be paid to the public account, and shall be applied in such manner as the Secretary of State, with the concurrence of the Treasury, may direct.

52. Subject to the other provisions of this Order, all expenses of removal of prisoners and others, and the expenses of deportation and of the sending of any person to Bombay, or to any part of Her Majesty's dominions or Protectorates, including expenses of maintenance, shall be defrayed in such manner as the Secretary of State, with the concurrence of the Treasury, directs.

53.—(a.) If an officer of the Court employed to execute an order loses, by neglect or omission, the opportunity of executing it, then, on complaint of the person aggrieved and proof of the fact alleged, the Court may, if it thinks fit, order the officer to pay the damages sustained by the person complaining, or part thereof.

(b.) The order may be enforced as an order directing payment of money.

54.—(a.) If a clerk or officer of the Court, acting under pretence of the process of authority of the Court, is charged with extortion, or with not paying over money duly levied, or with other misconduct, the Court may, if it thinks fit, inquire into the charge in a summary way, and may for that purpose summon and enforce the attendance of all necessary persons as in an action, and may make such order for the repayment of any money extorted, or for the payment over of any money levied, and for the payment of such damages and costs, as the Court thinks fit.

(b.) The Court may also, if it thinks fit, on the same inquiry, impose on the clerk or officer a fine not exceeding 50 rupees for each offence.

(c.) A clerk or officer punished under this Article shall not, without the leave of the Court, be liable to an action in respect of the same matter; and any such action, if already or afterwards begun, may be stayed by the Court in such manner and on such terms as the Court thinks fit.

(d.) Nothing in this Article shall be deemed to prevent any person from being prosecuted under any other law for any act or omission punishable under this Article, or from being liable under that other law to any higher punishment or penalty than that provided by this Article. Provided that no person shall be punished twice for the same offence.

55. The Consul-General, or any Consular officer appointed by him in that behalf, may exercise any power conferred on any Justices of the Peace within Her Majesty's dominions by any Act of Parliament for the time being in force, regulating merchant seamen or the mercantile marine.

56. Not later than the 31st March in each year the Consul-General shall send to the Secretary of State a Report on the operation of this Order up to the 31st December in the previous year showing, for the then last twelve months, the number and nature of the proceedings, criminal or civil, taken under this Order, and the result thereof, and the number and amount of fees received, and containing an abstract of the list of registered British subjects, and such other information, and being in such form as the Secretary of State from time to time directs.

PART IX.—REPEAL AND TRANSITORY PROVISIONS.

57.—(a.) From the commencement of this Order, the Orders in Council described in the Second Schedule to this Order shall be repealed as to Zanzibar, but this repeal shall not—

(i.) Affect the past operation of any of the repealed Orders, or any Regulation, Rule, or appointment made, or any right title, obligation, or liability accrued, or the validity or invalidity of anything done or suffered, under any of those Orders before the commencement of this Order.

- (ii.) Interfere with the institution or prosecution of any proceeding or suit, criminal or civil, in respect of any offence committed against, or forfeiture incurred, or liability accrued under, or in consequence of any provision of the repealed Orders, or any regulation made thereunder ;
- (iii.) Take away or abridge any protection or benefit given or to be enjoyed in relation thereto.

(b.) Notwithstanding the repeal of the Orders in Council aforesaid, or any other thing in this Order, every Regulation, Rule, appointment, and other thing in this Article mentioned shall continue and be as if this Order had not been made, but so that the same may be revoked, altered, or otherwise dealt with under this Order, as if it had been made or done under this Order.

58. Criminal or civil proceedings begun under any Order in Council repealed by this Order, and pending at the commencement of this Order, shall, from and after that time, be regulated by the provisions of this order, as far as the nature and circumstances of each case admit.

59. This order shall commence and have effect as follows :—

- (1.) As to the making of any warrant or appointment under this Order, immediately from and after the date of this Order.
- (2.) As to the framing of Rules of Procedure or Regulations, and the approval thereof by the Secretary of State, immediately from and after the date of this Order.
- (3.) As to all other matters and provisions comprised and contained in this Order, immediately from and after the expiration of one month after this Order is first exhibited in the public office of the Consul-General ; for which purpose he is hereby required forthwith, on receipt by him of a copy of this Order, to affix and exhibit the same conspicuously in his public office, and he is also hereby required to keep the same so affixed and exhibited during one month from the first exhibition thereof ; and notice of the time of such first exhibition shall, as soon thereafter as practicable, be published in Zanzibar in such manner as the Consul-General directs : and, notwithstanding anything in this Order, the time of the expiration of the said month shall be deemed to be the time of the commencement of this Order.
- (4.) Proof shall not in any proceeding or matter be required that the provisions of this Article have been complied with, nor shall any act or proceeding be invalidated by any failure to comply with any of such provisions.

60. A copy of this Order shall be kept exhibited conspicuously in the Court and in the Consulate at Zanzibar.

Printed copies shall be provided and sold at such reasonable price as the Consul-General directs.

And the Most Honourable the Marquess of Salisbury, K.G., and the Right Honourable Lord George Hamilton, two of Her Majesty's Principal Secretaries of State, are to give the necessary directions herein as to them respectively appertain.

C. L. Peel.

First Schedule.

INDIAN ACTS APPLIED.*

Acts XXXV. and XXXVI. of 1858, relating respectively to lunatics and lunatic asylums.

The Indian Penal Code (Act XLV. of 1860).

"The Whipping Act, 1864" (Act VI. of 1864).

The Indian Succession Act (Act X. of 1865), except section 331.

So much of "The Indian Post Office Act, 1866" (Act XIV. of 1866) as relates to offences against the Post Office.

The Indian Divorce Act (Act IV. of 1869), except so much as relates to divorce and nullity of marriage.

"The Bombay Civil Courts Act, 1869" (Act XIV. of 1869), except sections 6, 15, 23, 32, 33, 34, 38, to 43 (both inclusive), the last clause of section 19, and the last two clauses of section 22.

"The Indian Evidence Act, 1872" (Act I. of 1872).

"The Indian Contract Act, 1872" (Act IX. of 1872).

"The Indian Oaths Act, 1873" (Act X. of 1873).

The Indian Majority Act (Act IX. of 1875).

"The Indian Limitation Act, 1877" (Act XV. of 1877).

The Code of Criminal Procedure (Act X. of 1882), except chapter 33.

"The Transfer of Property Act, 1882" (Act IV. of 1882).

The Code of Civil Procedure (Act XIV. of 1882).

"The Prevention of Cruelty to Animals Act, 1890" (Act XI. of 1890).

Second Schedule.

ORDERS REPEALED.

"The Zanzibar Order in Council, 1884."†

"The Zanzibar Order in Council, 1888."†

"The Zanzibar Order in Council, 1889."‡

"The Zanzibar Order in Council, 1892."§

"The Zanzibar (Trade-marks, &c.) Order in Council, 1893."¶

"The Zanzibar (Jurisdiction) Order in Council, 1893."**

THE ZANZIBAR ORDER IN COUNCIL, 1903.

1903. No. 1082.

At the Court at Buckingham Palace, the 8th day of December, 1903.

PRESENT :

The King's Most Excellent Majesty in Council.

Whereas by Treaty, grant, usage, sufferance, and other lawful means His Majesty the King has power and jurisdiction within the dominions of His Highness the Sultan of Zanzibar :

* These Acts have (Dec. 31, 1903) been considerably amended, and in part repealed, by Acts of the Governor-General of India in Council, and of the Governor of Bombay in Council. Act X. of 1882 was repealed and re-enacted by Act V. of 1898.

† Printed in Statutory Rules and Orders Revised (1st edition), Vol. 3, p. 865.

‡ Printed in Statutory Rules and Orders Revised (1st edition), Vol. 3, p. 886.

§ Printed in Statutory Rules and Orders Revised (1st edition), Vol. 3, p. 898.

¶ Printed in Statutory Rules and Orders, 1892, p. 438.

** Printed in Statutory Rules and Orders, 1893, p. 405.

** Printed in Statutory Rules and Orders, 1893, p. 406.

Now, therefore, His Majesty, by virtue and in exercise of the powers on this behalf by "The Foreign Jurisdiction Act, 1890," or otherwise in His Majesty vested, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. This Order may be cited as "The Zanzibar Order in Council, 1903."

2. This Order shall be construed as one with "The Zanzibar Order in Council, 1897," * hereinafter called the "Principal Order."

3.—(1.) Notwithstanding anything contained in the Principal Order, a Second Assistant Judge may be appointed for the Court for Zanzibar.

(2.) The Second Assistant Judge shall be appointed in like manner and upon the same conditions as, and shall possess the like qualifications as are required for, the Assistant Judge.

(3.) The Second Assistant Judge shall have the same powers as the Assistant Judge.

(4.) In case of the illness or temporary absence of the Second Assistant Judge, or of his temporary appointment as Judge or assistant Judge, the Consul-General may appoint either a person qualified to be appointed Second Assistant Judge, or a person appointed to hold a subordinate Court under the Principal Order, or a commissioned Consular Officer to act as Second Assistant Judge.

4. The Assistant Judge and the Second Assistant Judge shall respectively undertake such part of the duties prescribed in the Principal Order for the Assistant Judge, and such other duties of a judicial, magisterial, or legal nature as the Judge, with the approval of the Secretary of State, shall direct.

5. In the event of the death, incapacity, removal, or absence from Zanzibar of the Consul-General for the time being, all and every the powers and authorities by the Principal Order granted to him shall, until His Majesty's further pleasure is signified through the Secretary of State, be vested in the senior Consular Officer in His Majesty's service for the time being in Zanzibar.

6. The production of a grant of probate or of letters of administration shall, notwithstanding any provision to the contrary contained in any Indian Act or Law in force in Zanzibar or in the Principal Order, be necessary to establish the right to recover or receive any part of the estate or effects of any deceased person situate in Zanzibar.

7. The powers of the Secretary of State with respect to the application to Zanzibar of enactments and Acts of the Governor-General of India in Council or of the Governor of Bombay in Council under Article 11 of the Principal Order, and of laws and Ordinances for the time being in force in African possessions of His Majesty, under Article 13 of that Order shall, on the commencement of

* Printed at p. 87 above.

this Order be transferred to the Consul-General, but those powers shall be exercised by him only by means of Regulations made under and subject in all respects to the provisions of Article 47 of the Principal Order.

8. The Consul-General may by Regulations made under, and subject in all respects to, the provisions of Article 47 of the Principal Order, repeal or amend with respect to Zanzibar any enactments, Acts, laws, or ordinances which are made applicable or have been brought into operation in Zanzibar by or under any of the provisions of Articles 11 and 13 of the Principal Order.

9. In Article 9 of the Principal Order the word "Judge" shall be substituted for the word "Consul-General."

10. The following provisions of the Principal Order are hereby repealed :—

Article 3 (iii). The words from "including" to "Consul-General."

Article 9. The word "Consul-General."

Article 11 (e) (iii). The words "relating to civil or criminal procedure or to procedure in bankruptcy."

Article 31 (a) and Article 32. The words "in Zanzibar."

And the Most Honourable the Marquess of Lansdowne, K.G., one of His Majesty's Principal Secretaries of State, is to give the necessary directions herein.

A. W. FitzRoy.

(d) British South Africa.

(i.) *Bechuanaland Protectorate*, p. 109.

(ii.) *Southern Rhodesia*, p. 113.
(iii.) *Swaziland*, p. 141.

(f) Bechuanaland Protectorate.

ORDER IN COUNCIL AS TO THE EXERCISE OF BRITISH JURISDICTION
IN CERTAIN TERRITORIES OF SOUTH AFRICA AS AMENDED BY
ORDER IN COUNCIL, DATED JULY 30, 1891.*

At the Court at Windsor, the 9th day of May, 1891.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.
Lord Steward.

Earl of Coventry.

Whereas the territories of South Africa situate within the limits of this Order, as hereinafter described, are under the protection of Her Majesty the Queen :

And whereas by treaty, grant, usage, sufferance, and other

* This Amending Order is printed at length in Statutory Rules and Orders, 1891, p. 298.

lawful means Her Majesty has power and jurisdiction in the said territories :

Now, therefore, Her Majesty, by virtue and in exercise of the powers by the Foreign Jurisdiction Act, 1890,* or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

I. The limits of this Order are :—The parts of South Africa bounded by British Bechuanaland,† the German protectorate, the Rivers Chobe and Zambesi, the Portuguese Possessions, and the South African Republic.‡

II. The High Commissioner may on Her Majesty's behalf exercise all powers and jurisdiction which Her Majesty, at any time before or after the date of this Order, had or may have within the limits of this Order, and to that end may take or cause to be taken all such measures, and may do or cause to be done all such matters and things within the limits of this Order as are lawful, and as in the interest of Her Majesty's service he may think expedient, subject to such instructions as he may from time to time receive from Her Majesty or through a Secretary of State.

III. The High Commissioner may appoint so many fit persons as in the interest of Her Majesty's service he may think necessary to be Deputy Commissioners, or Resident Commissioners, or Assistant Commissioners, or Judges, Magistrates, or other officers, and may define from time to time the districts within which such officers shall respectively discharge their functions.

Every such officer may exercise such powers and authorities as the High Commissioner may assign to him, subject nevertheless to such directions and instructions as the High Commissioner may from time to time think fit to give him. The appointment of such officers shall not abridge, alter, or effect the right of the High Commissioner to execute and discharge all the powers and authorities hereby conferred upon him.

The High Commissioner may remove any officer so appointed.

IV. In the exercise of the powers and authorities hereby conferred upon him, the High Commissioner may, amongst other things, from time to time by proclamation provide for the administration of justice, the raising of revenue, and generally for the peace, order, and good government of all persons within the limits of this Order, including the prohibition and punishment of acts tending to disturb the public peace.

The High Commissioner in issuing such proclamations shall respect any native laws or customs by which the civil relations of any native chiefs, tribes, or populations under Her Majesty's protection are now regulated, except so far as the same may be incompatible with the due exercise of Her Majesty's power and jurisdiction.

* 53 & 54 Vict. c. 37.

† Annexed to the Cape of Good Hope by Order in Council of October 3, 1895 ; printed under the title "Cape of Good Hope."

‡ Now the Transvaal Colony.

V.* Every proclamation of the High Commissioner shall be published in the Gazette, and shall, from and after a date to be mentioned in such proclamation, and thereafter until disallowed by Her Majesty or repealed or modified by any subsequent proclamation, have effect as if contained in this Order.

VI.* Her Majesty may disallow any such proclamation wholly or in part, and may signify such disallowance through a Secretary of State, and upon such disallowance being publicly notified by the High Commissioner in the Gazette the provisions so disallowed shall, from and after a date to be mentioned in such notification, cease to have effect, but without prejudice to anything theretofore lawfully done thereunder.

VII. The Courts of British Bechuanaland shall have in respect of matters occurring within the limits of this Order the same jurisdiction, civil and criminal, original and appellate, as they respectively possess from time to time in respect of matters occurring within British Bechuanaland, and the judgments, decrees, orders, and sentences of any such Court made or given in the exercise of the jurisdiction hereby conferred may be enforced and executed, and appeals therefrom may be had and prosecuted in the same way as if the judgment, decree, order, or sentence had been made or given under the ordinary jurisdiction of the Court.

But the jurisdiction hereby conferred shall only be exercised by such Courts, and in such manner and to such extent, as the Governor of British Bechuanaland shall by proclamation from time to time direct.

VIII. Subject to any proclamation made under this Order any jurisdiction exercisable otherwise than under this Order, whether by virtue of any statute, or Order in Council, or of any treaty or otherwise, and whether exercisable by Her Majesty, or by any person on Her behalf, or by any colonial or other Court or under any Commission, or under any charter granted by Her Majesty shall remain in full force.

IX. Judicial notice shall be taken of this Order, and of the commencement thereof, and of any proclamation made under this Order, and published in the Gazette, and of any treaties affecting the territories within the limits of this Order, and published in the Gazette, or contained in papers presented to both Houses of Parliament by command of Her Majesty.

X. This Order shall be published in the Gazette,† and shall thereupon commence and come into operation ; and the High Commissioner shall give directions for the publication of this Order at such places, and in such manner, and for such time or times as he thinks proper for giving due publicity thereto within the limits of this Order.

* These new Articles 5 & 6 were substituted for the previous Articles by the Order of 1891.

† This Order was published in the Cape of Good Hope Government Gazette, June 5, 1891.

XI. The Orders in Council of the twenty-seventh day of January, one thousand eight hundred and eighty-five,* for the establishment of civil and criminal jurisdiction in Bechuanaland, and of the thirtieth day of June, one thousand eight hundred and ninety,† providing for the exercise of Her Majesty's jurisdiction in certain territories in South Africa, shall continue in force until the commencement of this Order and be thereupon revoked, but without prejudice to anything lawfully done thereunder, and any proclamation theretofore issued under the said Orders shall continue in operation until repealed or altered by any proclamation of the High Commissioner under this Order.

XII. Her Majesty may from time to time revoke, alter, add to, or amend this Order.

XIII. In this Order, unless the subject or context otherwise requires,—

“Her Majesty” includes Her Majesty's heirs and successors.

“Secretary of State” means one of Her Majesty's Principal Secretaries of State.

“High Commissioner” means Her Majesty's High Commissioner for the time being for South Africa.

“Treaty” includes any existing or future treaty, convention, or agreement between Her Majesty and any civilised Power, or any native tribe, people, chief, or king, and any regulation appended to any such treaty, convention, or agreement.

“Gazette” means an official Gazette published by authority of the High Commissioner, and until such Gazette is instituted, means the Cape of Good Hope “Government Gazette.”

C. L. Peel.

THE COLONIAL PRISONERS' REMOVAL (SOUTH AFRICA) ORDER
IN COUNCIL, 1896.

1896. No. 962.

At the Court at Balmoral, the 26th day of October, 1896.

PRESENT :

The Queen's Most Excellent Majesty.

Lord Privy Seal.

Duke of Fife, K.T.

Sir Fleetwood Edwards.

Whereas by treaty, grant, usage, sufferance and other lawful means Her Majesty has power and jurisdiction in the territories of South Africa, situate within the boundaries in this Order specified.

Now, therefore, Her Majesty, by virtue and in exercise of the

* Published in “London Gazette,” January 30, 1885, p. 417.

† Printed in Statutory Rules and Orders, 1890, p. 662.

powers by the Colonial Prisoners' Removal Act, 1884,* or otherwise in Her Majesty vested, is pleased by and with the advice of Her Privy Council to order, and it is hereby ordered, as follows :—

1. This Order may be cited as "The Colonial Prisoners' Removal (South Africa) Order in Council, 1896."

2. From and after the date of this Order the Colonial Prisoners' Removal Act, 1884,* shall apply to the territories in South Africa within the following boundaries, viz., British Bechuanaland,† the German Protectorate, the rivers Chobe and Zambesi, the Portuguese possessions, and the South African Republic,‡ as if the said territories were a British possession and part of Her Majesty's dominions, subject as follows :—

Her Majesty's High Commissioner for the time being for South Africa shall, for the purposes of this Order, be substituted for the governor of a British possession.

And the Right Honourable Joseph Chamberlain, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein.

J. H. Harrison.

(ii) Southern Rhodesia.

ORDER IN COUNCIL, DATED MAY 9, 1891, AS TO THE EXERCISE OF
— BRITISH JURISDICTION IN CERTAIN TERRITORIES OF SOUTH
AFRICA, AS AMENDED BY ORDER IN COUNCIL, DATED JULY 30,
1891.

[This order is printed at p. 109 above.]

ORDER IN COUNCIL AS TO THE VALIDITY OF CERTAIN MARRIAGES
SOLEMNISED WITHIN THE LIMITS OF THE MATABELELAND ORDER
IN COUNCIL, 1894.

1895. No. 407.

At the Court at Balmoral, the 3d day of October, 1895.

PRESENT :

The Queen's Most Excellent Majesty.

Earl of Kintore.

Earl of Hopetoun.

Mr. Chaplin.

Sir Fleetwood Edwards.

Whereas doubts have been entertained as to the validity of certain marriages solemnised within the limits of the Matabeleland Order in Council, 1894,§ by magistrates purporting to act under

* 47 & 48 Vict. c. 31.

† Annexed to the Cape of Good Hope by Order in Council of October 3, 1895 ; printed under the title "Cape of Good Hope."

‡ N w the Transvaal Colony.

§ Printed in Statutory Rules and Orders, 1894, p. 133.

laws of the colony of the Cape of Good Hope believed to be in force within the said limits or by ministers of the Christian religion under licenses issued by such magistrates, and it is expedient to remove those doubts :

Now, therefore, Her Majesty, by virtue and in exercise of Her powers by the Foreign Jurisdiction Act, 1890,* or otherwise in Her Majesty vested, is pleased by and with the advice of Her Privy Council to order, and it is hereby ordered, as follows :—

1. All marriages solemnised within the limits of the Matabeleland Order in Council, 1894,† before the tenth of January, 1895, by any magistrate or acting magistrate who had not been appointed a marriage officer by the High Commissioner for South Africa, or by any minister of religion of any denomination of Christians under a license issued by any such magistrate or acting magistrate shall be as valid in law as if they had been solemnised within the colony of the Cape of Good Hope with a due observance of all forms required by law.

2. The parties to any marriage in the first section of this Order referred to shall be entitled to have the said marriage registered at such place and in such manner as is required by law for the registration of marriages within the said limits, and a certified copy of the register of any such marriage shall be good evidence of such marriage before all Courts and for all purposes whatsoever.

3. The expressions “Colonial Secretary of the Colony” and “Colonial Secretary” in the Marriage Order in Council dated seventh day of September, 1838,‡ and in the Act of the said colony, No. 16, of 1860, shall when applied to any territories within the limits of the Matabeleland Order in Council, 1894,† mean the Secretary to the Administrator appointed under that Order.

4. This Order shall not render valid any marriage which before the date of this Order has been declared invalid by any Court of competent jurisdiction, or affect any right dependent on the validity or invalidity thereof, or render valid any marriage either of the parties to which has during the life of the other lawfully intermarried with any other person.

C. L. Peel.

THE COLONIAL PRISONERS' REMOVAL (SOUTH AFRICA) ORDER IN COUNCIL, 1896. DATED OCTOBER 26, 1896.

1896. No. 962.

[This order is printed at p. 112 above.]

* 53 & 54 Vict. c. 37.

† Printed in Statutory Rules and Orders, 1894, p. 133.

‡ Published in “London Gazette,” September 18, 1838, pp. 1999–2006.

**THE SOUTHERN RHODESIA ORDER IN COUNCIL, 1898, AS AMENDED
BY THE SOUTHERN RHODESIA ORDER IN COUNCIL, 1903.***

1898, No. 1068, *as amended by* 1903, No. 122.

At the Court at Balmoral, the 20th day of October, 1898.†

PRESENT :

The Queen's Most Excellent Majesty.

Duke of Fife.

Earl of Kintore.

Lord George Hamilton.

Whereas the territories of South Africa situated within the limits of this Order, as hereinafter described, are under the protection of Her Majesty the Queen :

And whereas by treaty, grant, usage, sufferance, and other lawful means, Her Majesty has power and jurisdiction in the said territories.

Now, therefore, Her Majesty, by virtue and in exercise of the powers by the Foreign Jurisdiction Act, 1890,‡ or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

1. This Order may be cited as the Southern Rhodesia Order in Council, 1898.

2. This Order is divided into parts, as follows :—

	Articles.
I. Interpretation and Application	3–6
II. Administration and Legislation	7–47
III. Police	48
IV. Judicial	49–78
V. Native Administration	79–89
VI. Miscellaneous	90–94

PART I.—INTERPRETATION AND APPLICATION.

3. In this Order, unless the subject or context otherwise requires :—

“ Her Majesty ” includes Her Majesty's heirs and successors.

“ Secretary of State ” means one of Her Majesty's Principal Secretaries of State.

“ High Commissioner ” means Her Majesty's High Commissioner for the time being for South Africa.

“ The Company ” means the British South Africa Company.

* This amending Order is printed at length in Statutory Rules and Orders, 1903, p. 779.

† By Order in Council of February 2nd, 1899, printed at p. 135 below. This Order was varied as to the date of its coming into operation.

‡ 53 & 54 Vict c. 37.

- "Charter" means Her Majesty's Charter of the 29th day of October, 1889,* incorporating the Company.
- "High Court" means the High Court of Southern Rhodesia constituted by this Order.
- "Administrator" means an Administrator appointed under this Order to administer affairs within the limits of this Order or within any parts of such limits and includes an Acting Administrator.
- "The Administrator" means, if there be two or more Administrators, the senior of such Administrators.
- "Judge" means any Judge or Acting Judge of the High Court.
- "Magistrate" means a Magistrate or Assistant Magistrate appointed under this Order and includes an Acting Magistrate.
- "Proclamation" means a Proclamation issued by the High Commissioner under an Order in Council.
- "Ordinance" means a legislative Ordinance made by the Administrator by and with the advice and consent of the Legislative Council under this Order.
- "The Colony" means the Colony of the Cape of Good Hope.
- "Supreme Court" means the Supreme Court of the Colony.
- "Gazette" means any Official Gazette published within the limits of this Order by authority of an Administrator by and with the advice and consent of the Executive Council.†
- "Native" means any person not of European descent who is a native of South Africa, or of Central Africa.
- "Person" includes Corporation.
- The plural includes the singular, and the singular the plural, and the masculine the feminine.
- "Document" includes minute, resolution, order, book, telegram, letter, map, code, cypher or any other printed typed or written matter of any nature whatsoever, or any copy thereof.
- "The Treasury" means the Lord High Treasurer for the time being or the Commissioners for the time being of Her Majesty's Treasury.
- "Military police forces" includes all military, volunteer, and police forces from time to time being within the limits of this Order, but does not include any civil police forces to which the High Commissioner by Proclamation may declare that this Order shall not extend.

4. The limits of this Order are the parts of South Africa bounded by the Portuguese Possessions, by the South African Republic‡ to a point opposite the mouth of the River Shashi, by the River Shashi to its junction with the Tati and Ramaquaban rivers, thence by the Ramaquaban river to its source, thence by the watershed

* Printed as Parliamentary Paper, 1898 [C. 8773].

† See Order of February 2, 1899, printed at p. 135 below.

‡ Now the Transvaal Colony.

of the rivers Shashi and Ramaquaban until such watershed strikes the Hunters' Road (called the Pandamatenka road) thence by that road, to the River Zambesi, and by that river to the Portuguese boundary. The said limits include an area of ten miles radius round Fort Tuli, but exclude the area of the district known as the Tati district as defined by the Charter.

The territory for the time being within the limits of this Order shall be known as Southern Rhodesia.

5.—(1.) A Secretary of State may from time to time, by notice published in the Gazette and in the "London Gazette," declare that any parts of South Africa south of the River Zambesi, and under the protection of Her Majesty, shall be included in the limits of this Order, and from the date of the publication of the notice in the Gazette this Order shall apply to the parts named therein.

(2.) A Secretary of State may from time to time by the like notice declare that any part of South Africa for the time being within the limits of this Order shall, until otherwise directed, be excepted from the application of this Order; and from the date of the publication of such notice in the Gazette, the part named therein shall be excluded from the limits of this Order.

6.—(1.) The powers and authorities conferred upon the High Commissioner by Her Majesty's Order in Council of the 9th of May, 1891,* providing for the exercise of Her Majesty's jurisdiction in certain territories of South Africa as amended by Her Majesty's Order in Council of the 30th July, 1891,† shall continue in force within the limits of this Order concurrently with the powers conferred upon the Company by this Order.

(2.) The powers conferred upon the Company by this Order are in augmentation of the powers conferred upon it by the Charter.

7. The Company shall have and may exercise the general administration of affairs within the limits of this Order, in accordance with the terms of the Charter and any Charter amending the same or Supplementary thereto and the provisions of this Order.

8.—(1.) The Company may exercise such administration by one or more Administrators, and under him, or them, by such other officers as may from time to time be necessary, and may from time to time, with the approval of a Secretary of State, determine the number of Administrators.

(2.) The Company, with the approval of a Secretary of State, may from time to time assign the local limits of the Province within which an Administrator shall act.

(3.) Whenever there is more than one Administrator the Company, with the approval of a Secretary of State, shall determine the precedence of the several Administrators.

9. The Company shall appoint the Administrator or Administrators and shall pay his or their salaries and the salaries of such officers as may be required for the administration of Southern

* Printed, as amended by the 1891 Order, at p. 113 above.

† Printed in Statutory Rules and Orders, 1891, p. 298.

Rhodesia: but shall obtain the approval of a Secretary of State before appointing any person to the office of Administrator. The salary of an Administrator shall be fixed by the Company, with the approval of a Secretary of State, and shall not be increased or diminished without his approval. An Administrator may be removed or suspended from office by a Secretary of State or by the Company with the approval of a Secretary of State

10.—(1.) An Administrator shall hold office, unless sooner removed, for three years from the date at which he enters upon the duties of his office; and with the approval of a Secretary of State may from time to time be re-appointed for a further term of three years. At the end of any such term an Administrator shall continue in office until re-appointed or until his successor is appointed.

(2.) If at the end of any such term, or if on a vacancy in the office the Company does not within three months thereafter, with the approval of a Secretary of State, re-appoint an Administrator or appoint his successor, a Secretary of State may appoint some person to be Administrator.

11.—(1.) The Company, with the approval of a Secretary of State, may appoint some person to act as Administrator in the event of the death, removal, resignation, absence from Southern Rhodesia, incapacity, or suspension of an Administrator. A Secretary of State, or the Company with the approval of a Secretary of State, may remove or suspend an Acting Administrator.

(2.) The precedence, powers, and duties of an Acting Administrator shall, unless otherwise determined by the Company, with the approval of a Secretary of State, be the same as that of the Administrator in whose place he is acting.

(3.) When there is no Administrator or Acting Administrator appointed by the Company to any Province capable of discharging the duties of the office the Administrator or Acting Administrator of the other province of Southern Rhodesia, or, if there shall be more than one other Province, the senior of such Administrators or Acting Administrators, or, if there shall be no such Administrator or Acting Administrator in Southern Rhodesia capable of discharging the duties of the office, the Senior Member of the Executive Council other than the Resident Commissioner shall act as Administrator for the Province in which there is such vacancy.

12. The Secretary of State may appoint an officer who shall reside within Southern Rhodesia, and who shall be called the Resident Commissioner.

(1.) The Resident Commissioner shall be paid out of money provided by Parliament such salary and allowances as a Secretary of State, with the concurrence of the Treasury, may determine.

(2.) The Resident Commissioner shall be *ex officio* a member of the Executive and Legislative Councils, and shall be entitled to be present at any meeting of either Council, and at any meeting of any Committee thereof, and shall be entitled to speak but not to vote at any such meeting.

(3.) The Resident Commissioner shall make a report to the

High Commissioner upon every Ordinance submitted for his assent and upon all appointments submitted for his approval, and shall, as occasion may require, fully inform the High Commissioner upon all matters of importance arising within the limits of this Order.

(4.) The Resident Commissioner shall take precedence next after the Administrator.

(5.) Every Administrator shall supply or cause to be supplied to the Resident Commissioner, by such officer and at such place as he may desire, all such information and all such documents of whatever nature having reference to the administration or the officers and servants of the Company as the Resident Commissioner may at any time require, and shall furnish true copies of any such documents at any time if requested by the Resident Commissioner so to do.

13.—(1.) There shall be in Southern Rhodesia an Executive Council to assist the Administrator, consisting of the Resident Commissioner, every Administrator other than the Senior Administrator, and not less than four members appointed by the Company, with the approval of a Secretary of State. A member of the said Council shall hold office for three years, unless sooner removed by the Company, with the like approval, but shall be eligible for re-appointment.

(2.) The Company, with the approval of a Secretary of State, shall, subject to the provisions of this Order, determine the precedence of members of the Executive Council.

14.—(1.) The Administrator shall preside at the meetings of the Executive Council. In his absence, the Administrator next to him in order of precedence who is present, or, if no Administrator is present, such other member of the Executive Council as the Senior Administrator shall designate in writing, shall preside at the meetings of the Council.

(2.) The Executive Council shall meet whenever summoned by the Administrator at such time and place as shall be specified in the summons. The Administrator shall on the request of any other Administrator or of the Resident Commissioner immediately summon the said Council.

(3.) Three members exclusive of the Resident Commissioner shall form a quorum.

15. An Administrator shall take the advice of the Executive Council upon all matters of importance affecting the administration of affairs within the limits of the Province to which he has been appointed, except in cases which are too urgent to admit of their advice being taken. In all such urgent cases the Executive Council shall as soon as possible be summoned and acquainted with the action taken and the reasons therefor.

16. An Administrator may act contrary to the advice of the Executive Council, but in every such case he shall report the matter forthwith to the Company, with the reasons for his action. In every such case any member of the Council who dissents may

require that the reasons for his dissent be recorded and transmitted to the Company. The Company may reverse any action of an Administrator whether taken with, or without, or against, the advice of the Executive Council.

17.*—(A.) (1.) There shall be in Southern Rhodesia a legislative body to be styled "The Legislative Council," composed of the Administrator, the Resident Commissioner, and fourteen other members, of whom seven, hereinafter referred to as "nominated members" shall be appointed by the Company, with the approval of a Secretary of State, and seven shall be elected by the registered voters in the manner hereinafter provided. Provided that the proceedings of the Council shall not be invalid on account of any vacancies therein.

(2.) Notwithstanding anything contained in the principal Order, the High Commissioner may from time to time, with the previous approval of a Secretary of State by proclamation alter and amend any provision of this Order or of the principal Order relating to the constitution of the Legislative Council if the said Council shall resolve that such alteration and amendment be made, provided that any resolution of the Legislative Council which recommends that the numbers of the nominated and elected members respectively of the said Council shall be unequal shall be passed by a majority of not less than three-fourths of the members of the whole Legislative Council as constituted at the date of any such resolution.

(3.) The nominated members of the Legislative Council shall take precedence of the elected members. The Company, with the approval of a Secretary of State, shall determine the precedence of the nominated members amongst themselves. The elected members shall rank among themselves in order of the date of their election, and two or more members elected on the same day shall rank in the alphabetical order of their names.

(B.) Until the expiration of their term of office by effluxion of time unless the Council be sooner dissolved, the existing elected members for Mashonaland shall continue to hold their seats in the Council as representatives of the electoral district containing the District of Salisbury and the existing elected members for Matabeleland shall continue to hold their seats as representatives of the electoral district containing the District of Bulawayo.

18. It shall be lawful for the High Commissioner, by Proclamation, after consulting the Administrator,—

- (1.) To create electoral districts and to declare what number of members shall be elected to the Legislative Council for each district ;
- (2.) To fix, subject to the provisions of this Order, the qualifications of electors and elective members respectively ; and
- (3.) Generally to make all such provisions and regulations for the registration of voters, the issue of writs, the

* The new Article 17 was substituted for the previous Article by the Order of 1903.

manner and time of holding elections and otherwise, in respect of the election of members to the said Council as shall from time to time appear to him to be necessary for the proper conduct of such proceedings.

19. The Legislative Council may, from time to time be convoked, prorogued, and dissolved by any instrument under the hand of the administrator.

20. The Legislative Council shall be convoked within six months after the publication of this Order in the Gazette, and afterwards once at least in every year.

21. The place of meeting of the Legislative Council shall be fixed by the instrument convoking the meeting.

22. The duration of the Legislative Council, unless sooner dissolved, shall be three years.

23.* The Administrator shall preside at the meetings of the Legislative Council, and in his absence such other member of the Council as may be appointed in writing by the Administrator shall preside.

24. A member of the Legislative Council may resign his seat by writing under his hand, addressed to the Administrator, but no resignation shall take effect until it be accepted in writing by the Administrator. Any member resigning shall be eligible for re-appointment, or, unless disqualified as hereinafter provided, for re-election.

25.—(1.) The nominated members of the Legislative Council may be removed or suspended by the Company.

(2.) The nominated members shall hold their seats until the next dissolution of the Legislative Council after their appointment, unless they previously resign their seats or are removed or suspended.

(3.) Whenever the seat of a nominated member becomes vacant by death, resignation, or removal the Company shall appoint a successor; in default of such appointment by the Company within a period of three months from the occurrence of the vacancy a Secretary of State may appoint a person to fill the vacancy.

26. No person shall be qualified to be an elected member who—

(1.) Is an infant or is not a British subject by birth or naturalisation.

(2.) Has within five years before his election, or since his election, been convicted of any crime and sentenced to imprisonment with hard labour without the option of a fine, or to any greater punishment, and has not received a free pardon, or has, within or during the time aforesaid, surrendered his estate as insolvent, or made a composition or arrangement with his creditors.

* The new Article 23 was substituted for the previous Article by the Order of 1903.

- (3.) Provided that where a person is disqualified by having surrendered his estate as insolvent, or made a composition or arrangement with his creditors, the disqualification shall cease, in case of insolvency, when the debtor has obtained his rehabilitation or paid his debts in full.

27. Every elected member who shall accept any office of profit under the Government of Southern Rhodesia shall vacate his seat in the said Council, but shall be eligible for appointment as a nominated member.

28. When any elected member becomes disqualified, or vacates his seat in the Legislative Council otherwise than by the dissolution thereof, the Administrator shall take steps forthwith, in accordance with the provisions for the time being in force with respect to the election of members of the Legislative Council, for the election of a successor by the electors of the district which such elected member represented.

29. Standing rules for the orderly conduct of business shall be made by the Legislative Council at its first meeting, and thereafter from time to time as occasion shall require.

30.—(1.) In the event of the suspension, absence from Southern Rhodesia, or other incapacity of a member of the Executive Council or of a nominated member of the Legislative Council, the Company may, with the approval of a Secretary of State, appoint some other person to fill the temporary vacancy thus caused.

(2.) Provided that in default of such appointment by the Company within a period of three months after a vacancy has arisen, a Secretary of State may appoint a person to fill the vacancy.

(3.) Every member appointed to fill any such temporary vacancy shall cease to be a member on the return to Southern Rhodesia or the removal of the suspension or incapacity of the member in whose place he was appointed.

31. Until otherwise determined by the Legislative Council the said Council shall not be considered as constituted for the despatch of business unless at least six members exclusive of the Resident Commissioner be present and assisting thereat.

32.*—(1.) Questions arising in the Legislative Council or in any Committee of the Legislative Council shall be decided by a majority of votes of the members present other than the Administrator and the Resident Commissioner.

(2.) In the event of an equality of votes on any question arising in the Legislative Council the Administrator shall have a casting vote. Any member appointed by the Administrator to preside in his absence at a meeting of the Council shall have a casting vote when presiding as well as an original vote.

(3.) In the event of an equality of votes arising on any question in a Committee of the Legislative Council (a) when the Adminis-

* The new Article 32 was substituted for the previous Article by the Order of 1903.

trator is present the Chairman of the Council in Committee shall have an original vote only and the Administrator shall have a casting vote ; (b) when the Administrator is absent the Chairman of the Council in Committee shall have a casting vote as well as an original vote.

33. Every member of the Executive or Legislative Councils shall, before taking his seat, take and subscribe before the Administrator or some other person authorised by him the following oath of allegiance :—

“ I, A.B., do swear that I will be faithful and bear true
“ allegiance to Her Majesty Queen Victoria, Her heirs
“ and successors according to law. So help me God.”

But any person authorised by law to affirm or declare instead of taking an oath may make such affirmation or declaration in lieu of such oath.

34.—(1.) Full and exact journals or minutes shall be kept of all the proceedings of the Executive and Legislative Councils, and of the proceedings of all Committees thereof, and at each meeting of either Council or of any such Committee the minutes of the last preceding meeting shall be read over and confirmed or amended, as the case may require, before proceeding to the despatch of other business.

(2.) A full and exact copy of such minutes as confirmed or amended shall be transmitted forthwith to the Resident Commissioner.

(3.) Twice in each year a full and exact copy of all the said minutes for the preceding half year shall be transmitted by the Administrator to the Company, and the Company shall upon the receipt thereof forthwith transmit a true copy to a Secretary of State.

35. It shall be lawful for the Administrator by and with the advice and consent of the Legislative Council to make Ordinances for the peace, order, and good government of Southern Rhodesia.

36. All Ordinances shall be submitted to the High Commissioner for his assent, disallowance, or other direction thereon, together with a report thereon by the Resident Commissioner, and no Ordinance shall take effect until the High Commissioner shall have signified his assent thereto and the Ordinance together with a notification of such assent shall have been published in the Gazette.

37. The High Commissioner shall sign every Ordinance assented to by him and shall, at the first convenient opportunity, transmit an authenticated copy of every such Ordinance to a Secretary of State, and every such Ordinance may be disallowed within one year from the taking effect thereof by a Secretary of State, either of his own motion or at the request of the Company, and every Ordinance so disallowed shall become null and void so soon as the disallowance thereof shall be published in the Gazette, but without prejudice to anything theretofore lawfully done thereunder.

38. An Ordinance may amend or repeal a Proclamation.

39. If any Ordinance is in any respect repugnant to the provisions of an Order made by Her Majesty in Council, such Ordinance shall be read subject to such Order, and shall to the extent of such repugnancy be absolutely void.

40.* No Ordinance, vote, resolution or question the object or effect of which may be to dispose of or charge any part of the Revenues of Southern Rhodesia or to revoke alter or vary any such disposition or charge, shall be proposed except by the Administrator acting on the instructions of the Company or by his authority in writing previously obtained.

41.* The Administrator shall submit to the Legislative Council in each year, such an estimate as he may think necessary of the whole expenditure, not already fixed, which is intended to be incurred for services within Southern Rhodesia, together with an Estimate of the Revenue of Southern Rhodesia for the financial year then next ensuing, and shall transmit to the High Commissioner and to the Company at the earliest opportunity an Ordinance providing for the service of that year. Provided that emoluments of the Administrator, members of the Executive Council, and of such nominated members of the Legislative Council as are not members of the Executive Council, Judges of the High Court, Magistrates, Native Commissioners, and Assistant Native Commissioners shall be deemed to be reserved, and shall not be subjected to the vote of the Legislative Council.

42. When the Annual Estimates shall have been passed by the Legislative Council, and the Ordinance has been approved by the High Commissioner, the expenditure of the year shall be held to be definitely limited and arranged. Should, however, any further disbursements on account of the service of that year be required which have not been foreseen, the Administrator shall submit to the Legislative Council a Supplementary Estimate of the expenditure so required.

43. The Administrator shall transmit with the Annual Estimates such full and sufficient information as to every expense of an unusual nature therein comprised as may be necessary to enable the High Commissioner and the Company to judge of the propriety of the proposed expenditure, together with a table exhibiting the variations from the preceding year.

44. The Administrator shall at the same time that he proposes to the Legislative Council the Estimate of the ensuing year's expenditure, submit to them the draft of any Ordinance which may be necessary to provide the ways and means by which the expenditure is to be met.

45. Detailed statements of the revenue and expenditure of Southern Rhodesia shall be annually published in the Gazette,

* The new Articles 40 & 41 were substituted for the previous Articles by the Order of 1903.

immediately after the period when it is required that the accounts of each year are to be transmitted for audit.

46. Provision shall be made for a full and sufficient audit once in every year of the accounts of the Company relating to all sums received and moneys expended by the Company in connection with the administration of Southern Rhodesia.

47. No Customs duties levied on any articles produced or manufactured in any part of Her Majesty's Dominions or in any British Protectorate and imported into Southern Rhodesia shall exceed in amount the duties levied on such articles according to the tariff in force in the South African Customs Union at the commencement of this Order, or the tariff contained in the Customs Union Convention concluded between the Colony, the Orange Free State, and Natal, in May 1898, whichever are the higher.

PART III.—POLICE.

48.—(1.) The [*military police forces**] shall be and remain under the direct control and authority of the High Commissioner, and all officers and members of the said forces shall conform to and obey such orders and instructions as they may from time to time receive from the High Commissioner, or from any person appointed by him to act on his behalf.

(2.) The officer exercising the chief command of the said forces shall be styled "the Commandant General," and such Commandant General and the subordinate officers of the said forces shall be appointed by a Secretary of State. The Commandant General shall be paid out of money provided by Parliament such salary as a Secretary of State, with the concurrence of the Treasury, may determine.

(3.) The numbers of the [*military police forces**] shall not at any time be reduced without the previous approval of the High Commissioner, but this provision shall not apply to volunteer forces.

(4.) Subject to any such orders and instructions from time to time given by or by the direction of the High Commissioner it shall be the duty of the Commandant General to preserve peace and order, and for such purpose to employ the said forces in such manner as he may think proper, paying due regard to any requests in that behalf from time to time made to him by an Administrator, or other officer of the Company. If in any case the Commandant General deems it undesirable to comply with any such request he may apply to the High Commissioner for instructions, and shall act in accordance with the instructions given by the High Commissioner.

(5.) Provided that in case of urgency, when it is possible to

* For the words in brackets the words "all armed police and other armed forces the cost of which is defrayed or partly defrayed out of the revenues of Southern Rhodesia or of the British South Africa Company," were substituted by the Order in Council of August 7, 1900, printed at p. 140 below.

communicate more quickly with the Resident Commissioner, the Commandant General may apply to the Resident Commissioner for instructions instead of applying to the High Commissioner.

(6.) The Commandant General shall in no case take action of the nature of a military operation without the authority of the High Commissioner or Resident Commissioner, as the case may be.

PART IV.—JUDICIAL.

49.—(1.) There shall be a Court of Record, styled the High Court of Southern Rhodesia, with full jurisdiction, civil and criminal, over all persons and over all matters within Southern Rhodesia, subject to the provisions hereinafter contained with regard to native law or custom.

(2.) The law to be administered by the High Court and by the magistrates' courts hereinafter mentioned shall, so far as not inapplicable, be the same as the law in force in the Colony on the 10th day of June, 1891, except so far as that law has been modified by any Order in Council, Proclamation, Regulation or Ordinance in force at the date of the commencement of this Order.

(3.) The Courts shall give effect to such Orders in Council, Proclamations, Regulations, or Ordinances until altered or repealed, and to any Order in Council, Proclamation, or Ordinance hereafter to be made, except so far as any such Proclamation or Ordinance is repugnant to this Order, or to any other Order made by Her Majesty in Council.

(4.) Provided that no Statute of the Colony of the Cape of Good Hope promulgated after the 10th day of June 1891 shall be of any effect within the limits of this Order, unless specially applied thereto by Proclamation, Ordinance, or Regulation.

50. In civil cases between natives the High Court and the magistrates' courts shall be guided by native law so far as that law is not repugnant to natural justice or morality, or to any Order made by Her Majesty in Council, or to any Proclamation or Ordinance. In any such case the court may obtain the assistance of one or two native assessors, to advise the court upon native law and customs, but the decision of the court shall be given by the Judge or Magistrate alone. In all other respects the Court shall follow as far as possible the procedure observed in similar cases in the courts of the Colony.

51. If in any civil case between natives a question arises as to the effect of a marriage contracted, according to native law or custom, by a native in the lifetime of one or more other wives married to him according to native law or custom, the court may treat such marriage as valid for all civil purposes, in so far as polygamous marriages are recognised by the said native law or custom.

52. There shall be as many Judges of the High Court, to be paid by the Company, as from time to time may be necessary. The Judges shall be appointed by a Secretary of State on the

nomination of the Company, subject as provided in the next Clause, and shall hold office during good behaviour, and shall only be removed by a Secretary of State. The salaries of the Judges shall be fixed by the Company with the approval of a Secretary of State, and shall not be increased or diminished without his approval.

53. Whenever the appointment of a Judge is necessary the Company shall nominate to a Secretary of State a fit and proper person for the office. If the Secretary of State does not approve of such person he shall so inform the Company, and the Company shall thereupon nominate another person, and so on *toties quoties*, but if the Company has not within six months from the date of the occurrence of a vacancy nominated some person whom the Secretary of State approves the Secretary of State may appoint a person who has not been so nominated.

54. The High Court shall be held at such places as may from time to time be prescribed by the Administrator in Executive Council. The jurisdiction of the High Court may, until other arrangements are made by Proclamation, be exercised by any Judge thereof sitting alone.

55. If any sentence of death is pronounced by the High Court, a copy of the evidence shall be transmitted to the High Commissioner, and the sentence shall not be carried into effect until confirmed by him; the High Commissioner may signify his confirmation by telegraph.

56. The High Commissioner may remit or commute, in whole or in part, any sentence of the High Court, and may signify such remission or commutation by telegraph.

57. The High Court may make rules for regulating its procedure and practice and the admission of practitioners, and subject thereto, and so far as the same do not extend, the procedure, rules, and regulations of the High Court shall be as nearly as may be the same as the procedure, rules, and regulations of the Supreme Court.

58.—(1.) In civil matters when the amount or value in dispute exceeds one hundred pounds sterling, an appeal shall lie from the High Court to the Supreme Court.

(2.) Every appeal shall be brought within such time, and in such manner, as regards the form and transmission of the appeal, as may be prescribed by any rules of procedure made by the Supreme Court.

(3.) As regards matters not provided for by such rules, the procedure on appeal in the Supreme Court may be the same as the ordinary procedure of that Court on appeal, and the order of that Court on the appeal shall be certified under its seal to the High Court, which shall give effect thereto.

(4.) An appeal from an order of the Supreme Court on appeal shall lie to Her Majesty in Council in the same manner and on the same conditions as an appeal from a judgment of the Supreme Court in its ordinary jurisdiction.

(5.) The High Court may, before deciding any matter when the amount or value in dispute exceeds one hundred pounds, state a case in writing for the opinion of the Supreme Court. The High Court shall decide the matter in accordance with the opinion of the Supreme Court.

59.—(1.) Any party to a civil cause or other civil proceeding in the High Court of Southern Rhodesia not falling within the class of matters in which an appeal is under this Order allowed to the Supreme Court may apply to a Judge of the High Court for leave to appeal from any judgment or order made in such cause or proceeding. Such application shall be made within such time and with such notice as may be prescribed by rules made by the High Court.

(2.) It shall be in the discretion of the Judge to whom such application is made to grant or refuse leave to appeal from the whole or any portion of such judgment or order.

(3.) If the Judge shall grant leave to appeal then the provisions of Article 58 of this Order shall apply to that portion of such judgment or order against which leave to appeal has been granted as if the cause or proceeding were a matter in which the amount in dispute exceeded one hundred pounds.

(4.) The jurisdiction conferred by this Article upon the Supreme Court shall not be exercised until the Legislature of the Colony shall, by resolution or otherwise, have expressed its assent thereto, and until the High Commissioner shall have communicated such assent to the High Court.

60. In criminal matters an appeal shall lie from the High Court to the Supreme Court in the cases herein provided for and in no others.

Provided that the jurisdiction hereby conferred in such criminal matters shall not be exercised by the Supreme Court until the Legislature of the Colony shall, by resolution or otherwise, have expressed its assent thereto, and until the High Commissioner shall have communicated such assent to the High Court.

61.—(1.) If any defendant who shall be tried upon any indictment in the High Court shall think that any of the proceedings of the Court before which the trial takes place are irregular or not according to law, it shall be lawful for him either during his trial or after his conviction to apply to such Court to direct a special entry to be made on the record showing the nature of the proceedings alleged to be irregular or illegal.

(2.) If such a special entry be directed to be made, it shall be drawn up by the Registrar of the Court, and the defendant and the prosecutor, or their counsel and attorneys, shall be permitted to see it and copy it, and if either of them shall object to its terms it shall be settled by the Judge of the Court before which the case is tried.

62.—(1.) If any defendant who shall be convicted of any indictable crime or offence shall obtain leave to make, and shall cause to be made, such a special entry on the record as is hereinbefore

provided for, it shall be lawful for him, by leave of the Judge of the Court before which the case shall have been tried, to appeal against his conviction on the ground of the irregularity or illegality of such proceedings as aforesaid as stated in such special entry aforesaid.

(2.) Provided that within fourteen days after verdict notice of such appeal shall be given to the Registrar of the Court appealed from ; and such Registrar shall forthwith, after receiving such notice, give notice of such appeal to the Attorney General, and transmit to the Registrar of the Supreme Court an authenticated copy of the record, including copies of the evidence, whether oral or in writing, taken or admitted at the trial and of the special entry made on the record in manner aforesaid.

63. If any question of law shall arise on the trial of any person for any indictable crime or offence in the High Court it shall be lawful for the Court to reserve such question for the consideration of the Supreme Court. If the Court shall determine to reserve any such question, and the defendant shall be convicted, the Court shall state the question or questions reserved, and shall direct such case to be specially entered on the record, and a copy thereof to be transmitted to the Supreme Court.

64. If any question of law shall arise upon review of the judgment or sentence of any inferior Court in any criminal action or suit by or before the High Court, it shall be lawful for the reviewing Court, if it shall see fit to do so, to reserve such question for the consideration and determination of the Supreme Court.

65. It shall be lawful for the prosecutor or defendant in any criminal suit which shall be brought on appeal or review before the High Court from any inferior Court by leave of the High Court to appeal to the Supreme Court against the judgment of the High Court.

66. In case of any appeal against a conviction or judgment of the High Court, or of any question being reserved as aforesaid, it shall be lawful for the Supreme Court to—

- (1.) Confirm the judgment of the Court below, in which case if the defendant has been admitted to bail any Judge of the High Court may, on production to him of the order of the Supreme Court confirming such judgment, by warrant under his hand commit the said defendant to custody for the purpose of undergoing any term of imprisonment to which he may have been sentenced ; or
- (2.) Direct that the judgment shall be set aside notwithstanding the verdict, which order shall have for all purposes the same effect as if the defendant had been acquitted ; or
- (3.) Direct that the judgment of the Court shall be set aside, and that instead thereof such judgment shall be given by the Court before which the trial took place as ought to have been given at the trial ; or

- (4.) If such Court has not delivered judgment remit the case to it in order that it may deliver judgment; or
- (5.) Give such judgment as ought to have been given at the trial; or
- (6.) Make such order as justice may require:

Provided that no conviction shall be set aside by reason only of some irregularity or illegality, whereby the defendant was not prejudiced in his defence, or because evidence was improperly admitted or rejected by which no substantial wrong was in the opinion of the Supreme Court done to the defendant.

67. The order or direction of the Supreme Court shall in criminal cases be certified under the hand of the Presiding Judge to the Registrar of the Court before which the case was tried, and such order or direction shall be carried into effect, and shall authorise every person affected by it to do whatever is necessary to carry it into effect.

68. The execution of a sentence of the Court shall not be suspended by reason of any appeal against a conviction, or by reason of a question having been reserved for the consideration of the Supreme Court, unless—

- (1.) The sentence shall be that the defendant suffer death or be flogged or whipped, in either of which cases the sentence shall not be executed until the appeal or question reserved for the Supreme Court shall have been heard and decided, or
- (2.) The Court from which the appeal is made, or by which the question is reserved, shall think fit to order either that the defendant be admitted to bail, or, if he is sentenced to any punishment other than simple imprisonment, that he be treated as an unconvicted prisoner till the appeal or question reserved for the Supreme Court shall have been heard and decided.

69. There shall be magistrates' courts with jurisdiction over all persons within the districts assigned to them. A magistrate's court shall be a court of record, and shall have jurisdiction over the same matters, and to the same extent, as a court of Resident Magistrate in the Colony has jurisdiction within the district in which it is established.

70. An Administrator may from time to time determine the number of magistrates' courts required within the limits of the Province to which he has been appointed and by notice in the Gazette may assign to each such court the local limits of the district within which it is to have jurisdiction, and may alter such limits and may in like manner specify the places at which the court is to be held.

71. (1.) An Administrator may, with the approval of the High Commissioner, appoint a Magistrate to each such Court, and, if occasion requires, an Acting Magistrate, and every person so appointed may exercise all jurisdiction of the court.

(2.) The salaries of magistrates shall be fixed by the Adminis-

trator with the approval of the High Commissioner, and shall not be increased or diminished without his approval.

(3.) A Magistrate appointed to one court may act as a Magistrate of any other court.

(4.) Every submission to the High Commissioner for his approval of an appointment of a Magistrate or Acting Magistrate shall be accompanied by a report from the Resident Commissioner.

72. A Magistrate upon appointment may forthwith enter upon the duties of his office, but the appointment is subject to confirmation by a Secretary of State; if such confirmation is refused, the High Commissioner shall give public notice thereof in the Gazette, and thereupon the powers of the Magistrate shall cease. A Magistrate may at any time be removed from office by a Secretary of State, or by an Administrator with the approval of a Secretary of State, but not otherwise.

73. A Magistrate on appointment shall, before exercising any of the functions of his office, in open court take the following oath :—

I, A.B., do promise and swear that I will faithfully, impartially, and diligently execute to the best of my abilities the duties of the office of Magistrate. So help me God.

74. Appeals shall lie to the High Court from the Magistrates of the district and two assessors from time to time selected by courts in the same cases, in the same manner, and with the same procedure as are allowed in the Colony with respect to appeals from the courts of Resident Magistrates; and any criminal case which would be liable to review if tried by a Resident Magistrate in the Colony shall be liable to review by the High Court.

75. (1.) The High Commissioner may suspend a Judge or Magistrate from his office for misconduct; but shall first cause him to be furnished with a written statement of the acts of misconduct alleged against him, and cause him to be called on to state in writing by a given day (which shall allow a reasonable interval) any grounds upon which he relies to exculpate himself.

(2.) If the suspension takes place, the High Commissioner shall forthwith transmit a full report of the matter, and the proofs of the alleged misconduct, to a Secretary of State, who may confirm or disallow the suspension.

(3.) If the suspension is confirmed, the suspended officer is thereby removed from office; if it is disallowed, the suspended officer is thereby restored to office, and is entitled to any salary that has been withheld during his suspension.

(4.) If the Secretary of State is of opinion that the officer deserves punishment, but not the extreme penalty of removal from office, he may, instead of disallowing the suspension, direct that the officer be restored to office, but be required to serve at a reduced salary, either permanently or for a stated period; or that a specific sum be deducted from any salary due or to become due to the officer; or that he be transferred to a lower office.

76. The High Commissioner by Proclamation, or the Administrator by and with the advice and consent of the Legislative Council by Ordinance, may make such other or further provisions as from time to time may appear desirable to secure the more efficient working of the several courts constituted by this Order.

77. Notwithstanding anything in this Order contained, all general rules, orders, and regulations of Court made under the provisions of the Matabeleland Order in Council, 1894, by the High Court of Matabeleland, shall to all intents and purposes, until repealed or altered, be as binding, conclusive, valid, and effectual as if this Order had not been made.

78. (1.) The High Commissioner shall notify by Proclamation the time when the Courts hereby established will be open, and as soon as the Judges of the High Court, and the Magistrates of the Courts hereby established, shall have assumed and entered upon the exercise of their jurisdiction, then and from thenceforth the High Court of Matabeleland and the Magistrates' Courts now established within Southern Rhodesia, and the jurisdiction of the said Courts respectively, shall be abolished, cease, and determine, and every suit, action, complaint, matter, or thing, civil or criminal, which shall be depending in such last mentioned Courts respectively shall, and may be proceeded with in the High Court constituted by this Order, or in any of the Magistrates' Courts which shall and may have jurisdiction within the district or place where such action or suit or other matter, civil or criminal respectively, was depending, and all proceedings which shall thereafter be had in such action or suit or other matter, civil or criminal respectively, shall be conducted as if such action or suit or other matter, civil or criminal, had been originally commenced in one or other of the said Courts constituted by this Order.

(2.) All the records and proceedings whatsoever of, and belonging to, the High Court of Matabeleland, and the Magistrates' Courts established by the Matabeleland Order in Council, 1894, shall, from and immediately after the opening of the Courts constituted by this Order, be delivered over and deposited for safe custody in such of the said Courts respectively as shall be most convenient, and all parties concerned shall, and may, have the same recourse to the said records and proceedings as to any other records or proceedings of the said Courts respectively.

PART V.—NATIVE ADMINISTRATION.

79. (1.) The Administrator shall appoint an officer to be called the Secretary for Native Affairs and officers to be called Native Commissioners, and, if occasion requires, Assistant Native Commissioners, and may from time to time, with the approval of the High Commissioner, subject to confirmation by a Secretary of State, prescribe by notice in the Gazette the powers, duties, salaries, and districts to be assigned to such officers.

(2.) The provisions of this Order with respect to the appoint-

ment, salaries, suspension, and removal of Magistrates shall apply to the appointment, salaries, suspension, and removal of the Secretary for Native Affairs, Native Commissioners, and Assistant Native Commissioners, and any other persons employed in the administration of native affairs, and the High Commissioner and a Secretary of State shall have and exercise the like powers with respect to these officers as under this Order are exercisable by them in the case of Magistrates.

(3.) It shall be lawful for the High Commissioner by Proclamation to confer upon any Native Commissioner or Assistant Native Commissioner such jurisdiction, not exceeding that exercisable by Magistrates, as may from time to time appear to him to be expedient.

80. No conditions, disabilities, or restrictions shall, without the previous consent of a Secretary of State, be imposed upon natives by Ordinance which do not equally apply to persons of European descent, save in respect of the supply of arms, ammunition, and liquor.

81. The Company shall from time to time assign to the natives inhabiting Southern Rhodesia land sufficient for their occupation, whether as tribes or portions of tribes, and suitable for their agricultural and pastoral requirements, including in all cases a fair and equitable proportion of springs or permanent water.

82. All questions relating to the settlement of natives on the lands within Southern Rhodesia shall be dealt with and decided by the Administrator in Executive Council, but all such decisions shall be subject to review by the High Commissioner.

83. A native may acquire, hold, encumber, and dispose of land on the same conditions as a person who is not a native, but no contract for encumbering or alienating land the property of a native shall be valid unless the contract is made in the presence of a Magistrate, is attested by him, and bears a certificate signed by him stating that the consideration for the contract is fair and reasonable, and that he has satisfied himself that the native understands the transaction.

84. The Company shall retain the mineral rights in all land assigned to natives. If the Company should require any such land for the purpose of mineral development or as sites of townships, or for railways or other public works, the Administrator in Executive Council, by direction of the Company and upon good and sufficient cause shown, may, with the approval of the High Commissioner, order the natives to remove from such land or any portion thereof, and shall assign to them just and liberal compensation in land elsewhere, situate in as convenient a position as possible, sufficient and suitable for their agricultural and pastoral requirements, containing a fair and equitable proportion of springs or permanent water, and, as far as possible, equally suitable for their requirements in all respects as the land from which they are ordered to remove.

85. (1.) No natives shall be removed from any kraal or from any land assigned to them for occupation, except after full enquiry by, and by order of the Administrator in Executive Council approved by the High Commissioner.

(2.) If any person without such order removes or attempts to remove any native from any kraal or from land unless in execution of the process of a competent court, he shall, in addition to any other proceedings to which he is liable, be guilty of an offence against this Order, and on conviction before the High Court shall be liable to imprisonment with or without hard labour for any period not exceeding two years, or to a fine not exceeding one hundred pounds sterling, or to both.

86. The High Commissioner may, if he thinks fit, refer any question relating to natives for report to any Judge of the High Court, and the Judge shall thereupon make such inquiry as he thinks fit, and shall report to the High Commissioner the result of such inquiry. The High Commissioner may act with reference to any such report as he thinks fit.

87. (1.) The Administrator in Executive Council shall, when so required by the High Commissioner, appoint in any magisterial district a subordinate tribunal, to consist of the Magistrate of the district and two assessors from time to time selected by a Judge of the High Court upon the request of the High Commissioner.

(2.) Such tribunal shall report or make recommendations to the High Commissioner upon all questions relating to natives referred to it by or by the direction of the High Commissioner, or by any Judge to whom any question relating to natives has been referred by the High Commissioner. The High Commissioner may deal with any such reports or recommendations as he thinks fit.

88. In case of a revolt against the Company, or other misconduct committed by a native chief or tribe, the Administrator in Executive Council may impose a reasonable fine upon the offender. The Administrator shall forthwith report every such case to the High Commissioner, who may remit the fine in whole or in part; the Administrator shall give effect to any such remission.

89. (1.) The High Commissioner shall transmit to a Secretary of State a report upon every case relating to natives dealt with by him under Part V. of this Order, together with copies of all reports and recommendations and all documents relating to such case, and a Secretary of State may review any case and reverse or modify any decision given or order made therein, and may give such directions in the matter as he thinks fit, and due effect shall be given to such directions by all persons.

(2.) Provided that such directions shall only be binding where a Secretary of State has within twelve months after receiving the report of the High Commissioner given notice to the High Commissioner that he intends to review any such case.

PART VI.—MISCELLANEOUS.

90. (1.) Where the approval of a Secretary of State is required under this Order for the appointment of any officer, such officer may, upon appointment, enter upon and perform the duties of his office before such approval has been signified, but until approved or disapproved by a Secretary of State such appointment shall be regarded as provisional only.

(2.) If any such appointment is disapproved by a Secretary of State, the person so appointed shall cease to hold the office so soon as the signification of such disapproval is received by the Administrator, but without prejudice to anything lawfully done by him during his provisional appointment.

(3.) The Administrator shall forthwith report to the High Commissioner who shall report to a Secretary of State every such provisional appointment.

(4.) Notice of the withholding of the approval of a Secretary of State shall be published in the Gazette.

91. The Matabeleland Order in Council, 1894,* shall continue in force until the commencement of this Order and shall thereupon be revoked, but without prejudice to anything lawfully done thereunder.

92. Judicial notice shall be taken of this Order and of the commencement thereof, and of any Ordinance made under this Order and published in the Gazette.

93.† This Order shall be published in the Gazette and shall thereupon commence and come into operation; and the High Commissioner shall give directions for the publication of this Order at such places, and in such manner, and for such time or times, as he thinks proper for giving due publicity thereto.

94. Her Majesty may from time to time revoke, alter, add to or amend this Order.

A. W. FitzRoy.

THE SOUTHERN RHODESIA ORDER IN COUNCIL, 1899.

1899. No. 81.

At the Court at Osborne House, Isle of Wight, the 2nd day of February, 1899.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.

Duke of Marlborough.

Lord Privy Seal.

Earl of Kintore.

Whereas by an Order in Council bearing date the 20th day of October, 1898,‡ and known as the Southern Rhodesia Order in

* Printed in Statutory Rules and Orders, 1894, p. 133, *et seq.*

† But see Order of February 2, 1899, printed below, directing that this Order shall be deemed to have come into operation, November 25, 1898.

‡ Printed at p. 115 above.

Council, 1898, provision was made for the administration of certain territories of South Africa, wherein Her Majesty has power and jurisdiction within the limits in the said Order in Council described and set forth :

And whereas by clause 93 of the said Order it was further provided that the said Order should be published in the *Gazette*, and should thereupon commence and come into operation :

And whereas doubts have arisen as to the meaning of the term "*Gazette*" as used in clause 93 of the said Order, and as to the day on which the said Order came into operation :

Now, therefore, Her Majesty, by virtue and in exercise of the powers by the Foreign Jurisdiction Act, 1890,* or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

I. The said Order in Council of the 20th of October, 1898, shall be deemed for all purposes to have commenced and come into operation on the twenty-fifth day of November, 1898.

II. This Order may be cited as the Southern Rhodesia Order in Council, 1899.

A. W. FitzRoy.

THE SOUTHERN RHODESIA NATURALISATION ORDER IN COUNCIL, 1899.

1899. No. 180.

At the Court at Windsor, the 7th day of March, 1899.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.

Lord Chamberlain.

Lord James of Hereford.

Whereas Her Majesty the Queen has power and jurisdiction in the territories of South Africa known as Southern Rhodesia :—

Now, therefore, Her Majesty is pleased by and with the advice of Her Privy Council to order, and it is hereby ordered, as follows :—

I. This Order may be cited as the Southern Rhodesia Naturalisation Order in Council, 1899.

II. In this Order, unless the context otherwise requires,—

"Southern Rhodesia" means the territory for the time being within the limits of the Southern Rhodesia Order in Council, 1898.†

"The Administrator" means, if there be two or more Administrators the senior of such Administrators, and includes an acting Administrator.

"The Gazette" means any official Gazette published in Southern Rhodesia.

* 53 & 54 Vict. c. 37.

† Printed at p. 115 above.

III. An alien may in Southern Rhodesia purchase, acquire, own or dispose of movable or immovable property of any description in like manner as natural-born subjects of Her Majesty. Provided that this section shall not qualify an alien for any office or franchise which such alien does not now by law possess, nor entitle an alien to any right or privilege except such rights and privileges as are hereby expressly given to him.

IV.—(1.) An alien who within such limited time before making the application hereinafter mentioned as may be allowed by the Administrator, either by general order or on any special occasion has resided in Southern Rhodesia for a term of not less than twelve months, and intends if such application be granted to continue to reside in Southern Rhodesia may apply to the Administrator for letters of naturalisation in the form provided in the first schedule hereto.

(2.) The applicant shall adduce in support of his application such evidence of his residence and intention to continue to reside and of the matters set forth in the said schedule as the Administrator may require, and shall furnish proof to the satisfaction of the Administrator that notice of his intention to apply for letters of naturalisation has been published in two issues of the Gazette.

(3.) The Administrator, if satisfied with the evidence adduced, shall take the case of the applicant into consideration and may, with or without assigning any reason, give or withhold letters of naturalisation as he thinks most conducive to the public good, and no appeal shall lie from his decision, but such letters of naturalisation shall not take effect until the applicant has made a declaration of allegiance to Her Majesty as hereinafter provided.

V. Any person resident in Southern Rhodesia who has previously obtained a certificate of naturalisation as a British subject elsewhere than in Southern Rhodesia, may notwithstanding that he has not resided within Southern Rhodesia for a period not less than twelve months prior to the date of his application, submit such certificate and make an application to the Administrator stating that—

- (a.) He is the person named in such certificate.
- (b.) That the certificate has been obtained without any fraud or intentionally false statement.
- (c.) That the signature and seal (if any) thereto are, to the best of his knowledge and belief genuine.
- (d.) That he intends, if naturalised, to reside in Southern Rhodesia,

and shall adduce in support of his application such evidence concerning the matters aforesaid and concerning the matters set forth in the first schedule hereto as the Administrator may require. The Administrator, if satisfied with the evidence adduced, shall take the case of the applicant into consideration, and may, with or without assigning any reason, give or withhold letters of naturalisation as he thinks most conducive to the public good, and no appeal shall lie from his decision, but such letters of naturalisation

shall not take effect until the applicant has made a declaration of allegiance to Her Majesty as hereinafter provided.

VI. Every alien to whom the Administrator may grant letters of naturalisation shall before the delivery of such letters to him make and subscribe before a Magistrate a declaration of allegiance in the form contained in the second schedule hereto, which declaration shall be of the same force and effect as an oath of allegiance.

VII. An alien to whom letters of naturalisation have been granted shall in Southern Rhodesia be entitled to all political and other rights, powers, and privileges, and be subject to all obligations to which a natural-born British subject is entitled or subject in Southern Rhodesia.

VIII.—(1.) A married woman shall in Southern Rhodesia be deemed to be a subject of the State of which her husband is for the time being a subject.

(2.) The following persons shall be deemed and taken to be naturalised, and shall have all the rights, privileges and obligations in Southern Rhodesia of natural-born subjects of Her Majesty—

(a.) Any alien woman who is already, or who shall hereafter be married to any person who shall be or become naturalised under this Order.

(b.) Where the father or the mother (being a widow) shall be or become naturalised under this Order, any child of such father or mother who during infancy shall be or become resident with such father or mother in Southern Rhodesia.

IX. A return of persons to whom letters of naturalisation shall have been granted under this Act shall be published in the Gazette half-yearly, in the months of January and July, and such return shall show :—

- (1.) Names of such persons in full.
- (2.) Their birthplace.
- (3.) Nationality prior to grant of letters of naturalisation.
- (4.) Occupation.
- (5.) Residence in Southern Rhodesia,
- (6.) Date of the issue of letters of naturalisation.

X. If any person shall wilfully make any false statement in any application made under the provisions of this Act for the purpose of obtaining letters of naturalisation, he shall, upon conviction, incur the same penalties as are by law provided against persons convicted of wilful and corrupt perjury, and in case letters of naturalisation shall have been granted such letters shall be void.

XI. Every person obtaining letters of naturalisation under this Act shall pay for the same a fee, to be collected by means of stamps, of one pound.

XII. The Administrator shall cause a register to be made and kept of all letters of naturalisation granted under this Order, and shall upon the application of any person, and upon payment of a fee of one shilling in respect of every name, permit a search to

be made for the name of any person upon, or supposed to be upon, the register.

A certificate under the hand of the Administrator attesting the fact of the issue of letters of naturalisation to any person whose name appears upon the said register may, at the discretion of the Administrator, be issued upon payment, by means of stamps, of a fee of five shillings. Every such certificate shall be received as evidence of the facts therein stated.

XIII. Every letter of naturalisation, and every such certificate as aforesaid, shall be admissible in evidence without proof of the signature or seal attesting the same, and shall be *prima facie* evidence of the person named therein being duly naturalised, and of the signature or seal attesting the same, and of the official character of the persons appearing to have signed the same.

A. W. FitzRoy.

The First Schedule.

FORM OF APPLICATION FOR LETTERS OF NATURALISATION.

To the Administrator of Southern Rhodesia.

I do hereby apply for Letters of Naturalisation in Southern Rhodesia, and I declare that the answers to the questions hereunder given are true and correct.

1. Name of the applicant (in full)
2. Present nationality and how acquired, by birth or naturalisation
3. Birthplace (state fully the name of the place and the country in which the place is situated)
4. Age next birthday
5. Occupation
6. Place of Residence in Southern Rhodesia
7. Length of time during which the applicant has resided in Southern Rhodesia
8. Does the applicant intend, if naturalised, to reside in Southern Rhodesia?

Dated at, the day of, 18

Witness,

Signature of Applicant,

The Second Schedule.

DECLARATION OF ALLEGIANCE.

I, A. B., of, do sincerely promise that I will be faithful and bear true allegiance to Her Majesty, Queen Victoria, and to her heirs and successors, according to law.

A. B.

Declared this day of, 18

Before me,

Justice of the Peace.

THE SOUTHERN RHODESIA (MILITARY POLICE FORCES) ORDER IN COUNCIL, 1900.

At the Court at Osborne House, Isle of Wight, the 7th day of August, 1900.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President. *

Mr. Akers-Douglas.

Sir Fleetwood Edwards.

Whereas it is expedient to revoke the Southern Rhodesia (Military Police Forces) Order in Council, 1899, and to further amend the provisions of the Southern Rhodesia Order in Council, 1898.*

Now, therefore, Her Majesty, by and with the advice of Her Privy Council is pleased to order, and it is hereby ordered, as follows :—

1. The Southern Rhodesia (Military Police Forces) Order in Council, 1899, is from the date of the commencement of this Order revoked.

2. Article 48 of the Southern Rhodesia Order in Council, 1898, shall be read as if the words "all armed police and other armed forces the cost of which is defrayed or partly defrayed out of the revenues of Southern Rhodesia or of the British South Africa Company" were substituted for the words "military police forces."

3. All other armed forces for the time being within Southern Rhodesia shall be under the direct control and authority of the Officer for the time being exercising the supreme command of Her Majesty's Forces in South Africa and all officers and members of such forces shall conform to and obey such orders and instructions as they may from time to time receive from him.

4. This Order shall be deemed to have commenced and come into operation on the 10th day of October, 1899. Provided that all acts lawfully done prior to the date of the publication of this Order under the provisions of Article 48 of the Southern Rhodesia Order in Council, 1898, and of the Southern Rhodesia (Military Police Forces) Order in Council, 1899, shall be as good and valid as if this Order had not been passed.

5. This Order may be cited as the Southern Rhodesia (Military Police Forces) Order in Council, 1900.

6. Her Majesty may from time to time revoke, alter, add to or amend this Order.

A. W. FitzRoy.

* Printed at p. 115 above.

(iii) **Swaziland.****THE SWAZILAND ORDER IN COUNCIL, 1903.**

1903. No. 531.

At the Court at Buckingham Palace, the 25th day of June, 1903.

PRESENT :**The King's Most Excellent Majesty in Council.**

Whereas the Government of the late South African Republic exercised rights and powers of protection, legislation, jurisdiction, and administration in and over the territory known as Swaziland :

And whereas the late South African Republic was conquered by His Majesty's Forces and was annexed to and now forms part of His Majesty's Dominions and provision has been made for the government thereof as one of His Majesty's Colonies under the name of the Transvaal :*

And whereas all the rights and powers of the late South African Republic with respect to Swaziland have, by virtue of the conquest and annexation of the said South African Republic passed to His Majesty, and His Majesty has by treaty, capitulation, grant, usage, sufferance, and other lawful means, power and jurisdiction in Swaziland :

Now, therefore, His Majesty, by virtue of the powers by the Foreign Jurisdiction Act, 1890,† or otherwise in His Majesty vested, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

I. This Order may be cited as the Swaziland Order in Council, 903.

II. In this Order, unless the contrary appears, "Swaziland" means the territory known by that name bounded on the North, the West and the South by the Transvaal, and on the East by the Colony of Natal and the Portuguese territories. "His Majesty" includes His Majesty's heirs and successors. "Secretary of State" means one of His Majesty's Principal Secretaries of State. "Governor" means the person for the time being administering the Government of the Transvaal as Governor thereof. "Gazette" means the Transvaal Government Gazette.

III. The Governor of the Transvaal may, on His Majesty's behalf, exercise all powers and jurisdiction which His Majesty, at any time before or after the date of this Order, had, or may have, within Swaziland, and to that end may take or cause to be taken all such measures, and may do or cause to be done all such matters and things therein as are lawful and as in the interest of His Majesty's service he may think expedient, subject to such instructions as he may from time to time receive from His Majesty, or through a Secretary of State.

* See Orders printed under the title "Transvaal."

† 53 & 54 Vict. c. 37.

IV. The Governor may appoint a Resident Commissioner and so many fit persons as, in the interest of His Majesty's service, he may think necessary to be Assistant Commissioners, Judges, Magistrates, or other Officers, and may define from time to time the districts within which such Officers shall respectively discharge their functions.

Every such Officer may exercise such powers and authorities as the Governor may assign to him, subject nevertheless to such directions and instructions as the Governor may from time to time think fit to give him. The appointment of such Officers shall not abridge, alter, or affect the right of the Governor to execute and discharge all the powers and authorities hereby conferred upon him.

The Governor may remove any Officer so appointed.

V. In the exercise of the powers and authorities hereby conferred upon him, the Governor may, amongst other things, from time to time by Proclamation, provide for the administration of justice, the raising of revenue, and generally for the peace, order, and good government of Swaziland, and of all persons therein, including the prohibition and punishment of acts tending to disturb the public peace.

The Governor, in issuing such Proclamations shall respect any native laws by which the civil relations of any native chiefs, tribes, or populations under His Majesty's protection are now regulated, except so far as the same may be incompatible with the due exercise of His Majesty's power and jurisdiction, or clearly injurious to the welfare of the said natives.

VI. Every Proclamation of the Governor shall be published in the Gazette, and shall from and after a date to be mentioned in such Proclamation, and thereafter until disallowed by His Majesty or repealed or modified by any subsequent Proclamation, have effect as if contained in this Order, and the Governor shall take such measures as he thinks proper for giving due publicity thereto within Swaziland.

VII. His Majesty may disallow any such Proclamation wholly or in part, and may signify such disallowance by Order in Council or through a Secretary of State, and upon such disallowance being notified in the Gazette, the provisions so disallowed shall from and after a date to be mentioned in such notification, cease to have effect, but without prejudice to anything theretofore lawfully done thereunder. Due notification shall be publicly made by the Governor within Swaziland of the disallowance of any such Proclamation.

VIII. The Governor shall use the Public Seal of the Transvaal for sealing all things whatsoever relating to Swaziland that are required to be under Public Seal.

IX. The Governor may as he shall see occasion, when any crime has been committed within Swaziland, or for which the offender may be tried therein, grant a pardon, in His Majesty's name to any accomplice, not being the actual perpetrator of such crime,

who shall give such information and evidence as shall lead to the apprehension and conviction of the principal offender; and further, may grant to any offender convicted of any crime in any court, or before any Judge, Justice, Magistrate, or other Officer within Swaziland a pardon, either free or subject to lawful conditions, or any respite of the execution of the sentence of any such offender, for such period as to the Governor may seem fit, and may remit any fines, penalties, or forfeitures which may become due and payable.

X. Any revenues which may be collected in or in respect of Swaziland shall be paid into the Treasury of the Transvaal, and all expenditure incurred under and in accordance with the provisions of this Order shall be paid out of the revenues of the Transvaal.

XI. This Order shall be published in the Gazette,* and shall thereupon come into operation, and the Governor shall give directions for the publication of this Order at such places, and in such manner and for such time or times as he thinks proper for giving due publicity thereto within Swaziland.

XII. His Majesty may from time to time revoke, alter, add to, or amend this Order.

And the Right Honourable Joseph Chamberlain, one of His Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

A. W. FitzRoy.

(e) British West Africa.

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| i. <i>Gambia Protectorate</i> , p. 143. | iv. <i>Northern Nigeria Protectorate</i> , p. 153. |
| ii. <i>Gold Coast, Northern Territories of the</i> , p. 145. | v. <i>Sierra Leone Protectorate</i> , p. 165. |
| iii. <i>Lagos Protectorate</i> , p. 150. | vi. <i>Southern Nigeria Protectorate</i> , p. 167. |

(i) Gambia Protectorate.

ORDER IN COUNCIL REGULATING BRITISH JURISDICTION WITHIN TERRITORIES ADJACENT TO THE GAMBIA.

At the Court at Windsor, the 23rd day of November, 1893.

PRESENT :

The Queen's Most Excellent Majesty.
 Lord President.
 Lord Steward.
 Lord Kensington.

Whereas by "The Foreign Jurisdiction Act, 1890,"† it was amongst other things enacted that it should be lawful for Her

* This Order was published in the Transvaal Gazette, August 7, 1903.

† 53 & 54 Vict. c. 37.

Majesty to hold, exercise, and enjoy any jurisdiction which Her Majesty then had or might at any time thereafter have, within a foreign country, in the same and as ample a manner as if Her Majesty had acquired that jurisdiction by the cession or conquest of territory.

And whereas by certain Letters Patent * under the Great Seal of the United Kingdom of Great Britain and Ireland, bearing date at Westminster the twenty-eighth day of November one thousand eight hundred and eighty-eight, Her Majesty's Settlement on the Gambia was erected into a separate colony, under the title of the Colony of the Gambia, and by the said Letters Patent a Legislative Council was appointed for the said Colony of the Gambia with certain powers and authority to legislate for the said colony as by the said Letters Patent will more fully appear.

And whereas Her Majesty hath acquired jurisdiction within divers foreign countries on the West Coast of Africa near or adjacent to Her Majesty's said Colony of the Gambia, and it is expedient to determine the mode of exercising such jurisdiction.

Now, therefore, Her Majesty is pleased by and with the advice of Her Privy Council, to order as follows :—

1. It shall be lawful for the Legislative Council for the time being of the Colony of the Gambia, by Ordinance or Ordinances, to exercise and provide for giving effect to all such jurisdiction as Her Majesty may, at any time before or after the passing of this Order in Council, have acquired in the said territories adjacent to the Colony of the Gambia.

2. The Governor for the time being of the Colony of the Gambia shall have a negative voice in the passing of all such Ordinances as aforesaid. And the right is hereby reserved to Her Majesty, Her heirs and successors, to disallow any such Ordinances as aforesaid, in whole or in part, such disallowance being signified to the said Governor through one of Her Majesty's Principal Secretaries of State, and also to make and establish from time to time, with the advice and consent of Parliament, or with the advice of Her or their Privy Council, all such Laws or Ordinances as may to Her or them appear necessary for the exercise of such jurisdiction as aforesaid as fully as if this Order in Council had not been made."

3. In the making and establishing all such Ordinances, the said Legislative Council shall conform to and observe all such rules and regulations as may from time to time be appointed by any Instruction or Instructions issued by Her Majesty under Her Sign Manual and Signet, and, until further directed, the Instructions in force for the time being as to Ordinances passed by the said legislative Council for the peace, order, and good government of the said Colony of the Gambia shall, so far as they may be applicable, be taken and deemed to be in force in respect of Ordinances passed by the said Council by virtue of this Order in Council.

* Printed under the title "Gambia."

4. The Courts of the Colony of the Gambia shall have in respect of matters occurring within the said territories adjacent to the said Colony so far as such matters are within the jurisdiction of Her Majesty the same jurisdiction, civil and criminal, original and appellate, as they respectively possess from time to time in respect of matters occurring within the said Colony, and the judgments, decrees, orders, and sentences of any such Court made or given in the exercise of the jurisdiction hereby conferred may be enforced and executed, and appeals therefrom may be had and prosecuted in the same way as if the judgment, decree, order, or sentence had been made or given under the ordinary jurisdiction of the Court.

5. In the construction of this Order in Council the term "Governor" shall include the officer for the time being administering the Government of the Colony of the Gambia.

And the Most Honourable the Marquess of Ripon, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

(ii) Gold Coast, Northern Territories of the.

ORDER IN COUNCIL AS TO BRITISH JURISDICTION IN TERRITORIES ADJACENT TO THE GOLD COAST COLONY.

1901. No. 796.

At the Court at St. James's, the 26th day of September, 1901.

PRESENT :

The King's Most Excellent Majesty.

Lord George Hamilton.

Mr. Chamberlain.

Mr. St. John Brodrick.

Sir Charles Scott.

Whereas His Majesty has power and jurisdiction within divers countries on the West Coast of Africa near or adjacent to His Majesty's Gold Coast Colony :

And whereas by an Order of Her late Majesty Queen Victoria in Council, bearing date the Twenty-ninth day of December, 1887,* it was provided that it should be lawful for the Legislative Council for the time being of the Gold Coast Colony, by Ordinance or Ordinances, to exercise and provide for giving effect to all such powers and jurisdiction as Her late Majesty might at any time before or after the passing of the said Order in Council have acquired in the said countries near or adjacent to the Gold Coast Colony, and certain other provisions were by the said Order made for such purpose :

And whereas it is expedient to revoke the said Order in Council of the Twenty-ninth day of December, 1887 :

Now, therefore, His Majesty, in pursuance of the powers by

* Printed in Statutory Rules and Orders Revised (1st Edition), Vol. 3, p. 523.

the Foreign Jurisdiction Act, 1890,* or otherwise in His Majesty vested, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

I. The Order of the Twenty-ninth day of December 1887 is hereby revoked.

II. All Ordinances or reputed Ordinances enacted or purporting to have been enacted by the Legislative Council for the time being of the Gold Coast Colony, for the purpose of giving effect to any such power and jurisdiction as Her late Majesty may at any time before or after the passing of the said Order in Council, or before or after the respective dates of such Ordinances, have acquired in the said territories near or adjacent to the Gold Coast Colony which have received the assent of Her late Majesty in Council, or which have received the assent of the Governor of the said Colony in the name and on behalf of Her late Majesty, or of His Majesty, shall be, and shall be deemed to have been, valid and effectual from the date of such assent for all purposes whatever; provided that nothing herein contained shall be deemed to give effect to any Ordinance which has been disallowed by Her late Majesty, or which has expired or has been lawfully repealed or to prevent the lawful disallowance or repeal of any such Ordinance.

III. All acts done within the territories aforesaid, under authority of the said Order in Council of the Twenty-ninth day of December, 1887, in the exercise of the powers and authorities granted or purporting to be granted thereby within the territories aforesaid, shall be and are hereby declared to be and to have been done lawfully.

IV. This Order shall come into operation on a day to be fixed by the Governor of the Gold Coast Colony, by notice published in the Gold Coast Government Gazette.†

And the Right Honourable Joseph Chamberlain, one of His Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

A. W. FitzRoy.

THE NORTHERN TERRITORIES ORDER IN COUNCIL, 1901.

1901. No. 795.

At the Court at St. James's, the 26th day of September, 1901.

PRESENT :

The King's Most Excellent Majesty.

Lord George Hamilton.
Mr. Chamberlain.

Mr. St. John Brodrick.
Sir Charles Scott.

Whereas by the Foreign Jurisdiction Act, 1890,* passed in the reign of Her late Majesty Queen Victoria, it was amongst

* 53 & 54 Vict. c. 37.

† This Order was brought into operation on January 1, 1902, by notice published in the Gold Coast Government Gazette, December 16, 1901.

other things enacted that it should be lawful for Her Majesty to hold, exercise, and enjoy, any jurisdiction which Her Majesty then had and might at any time thereafter have within a foreign country in the same and as ample a manner as if Her Majesty had acquired that jurisdiction by the cession or conquest of territory :

And whereas the territories of West Africa, situate within the limits of this Order, as hereinafter described, are under the protection of His Majesty the King :

And whereas by treaty, grant, usage, sufferance, and other lawful means, His Majesty has power and jurisdiction in the said territories :

And whereas it is necessary to provide for the peace, order, and good government of the territories aforesaid :

Now, therefore, His Majesty, by virtue and in exercise of the powers by the Foreign Jurisdiction Act, 1890, or otherwise in His Majesty vested, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

I. This Order may be cited as the Northern Territories Order in Council, 1901.

II. Until further provision be made in respect thereof the limits of this Order are the territories which are bounded on the south by the eighth parallel of north latitude, on the west and north by the line of the frontier between the British and French possessions, and on the east by the line of the frontier between the British and German possessions.

The territories so bounded shall be known as the Northern Territories of the Gold Coast, and are hereinafter referred to as the Northern Territories.

III. In this Order, unless the subject or context otherwise requires :—

“ His Majesty ” includes His Majesty’s heirs and successors.

“ Secretary of State ” means one of His Majesty’s principal Secretaries of State.

“ Treaty ” includes any existing or future Treaty, Convention, Agreement, or Arrangement, made by or on behalf of Her late Majesty Queen Victoria or His Majesty with any civilised Power, or with any native tribe, people, chief, or king, and any regulation appended to any such Treaty, Convention, Agreement, or Arrangement.

“ Gazette ” means the Gold Coast Government Gazette.

“ Governor ” includes the Officer for the time being administering the Government of the Gold Coast Colony.

IV. The Governor of the Gold Coast Colony may, on His Majesty’s behalf, exercise all powers and jurisdiction which His Majesty, at any time before or after the date of this Order, had, or may have, within the Northern Territories, and to that end may take or cause to be taken all such measures, and may do or cause to be

done all such matters and things therein as are lawful, and as in the interest of His Majesty's service he may think expedient, subject to such instructions as he may from time to time receive from His Majesty, or through a Secretary of State.

V. Subject to the approval of a Secretary of State, the Governor may appoint a Chief Commissioner and so many fit persons as, in the interest of His Majesty's service, he may think necessary to be Commissioners, Judges, Magistrates, or other Officers, and may define from time to time the districts within which such Officers shall respectively discharge their functions.

Every such Officer may exercise such powers and authorities as the Governor may, with the like approval, assign to him, subject nevertheless to such directions and instructions as the Governor may from time to time think fit to give him. The appointment of such Officers shall not abridge, alter, or affect the right of the Governor to execute and discharge all the powers and authorities hereby conferred upon him.

The Governor may, subject to confirmation by a Secretary of State, remove any Officer so appointed.

VI. In the exercise of the powers and authorities hereby conferred upon him, the Governor may, amongst other things, from time to time by Ordinance, provide for the administration of justice, the raising of revenue, and generally for the peace, order, and good government of the Northern Territories, and of all persons therein, including the prohibition and punishment of acts tending to disturb the public peace.

The Governor, in issuing such Ordinances, shall respect any native laws by which the civil relations of any native chiefs, tribes, or populations under His Majesty's protection are now regulated, except so far as the same may be incompatible with the due exercise of His Majesty's power and jurisdiction, or clearly injurious to the welfare of the said natives.

VII. Every Ordinance of the Governor shall be published in the Gazette, and shall from and after a date to be mentioned in such Ordinance, and thereafter until disallowed by His Majesty or repealed or modified by any subsequent Ordinance, have effect as if contained in this Order, and the Governor shall take such measures as he thinks proper for giving due publicity thereto within the Northern Territories.

VIII. His Majesty may disallow any such Ordinance wholly or in part, and may signify such disallowance by Order in Council or through a Secretary of State, and upon such disallowance being notified in the Gazette, the provisions so disallowed shall, from and after a date to be mentioned in such notification, cease to have effect, but without prejudice to anything theretofore lawfully done thereunder. Due notification shall be publicly made by the Governor within the Northern Territories of the disallowance of any such Ordinance.

IX. The Governor shall use the Public Seal of the Gold Coast Colony for sealing all things whatsoever relating to the Northern Territories that are required to be under the Public Seal.

X. The Governor may, upon sufficient cause to him appearing, suspend from the exercise of his office any person holding or exercising any office within the Northern Territories, whether appointed by the Governor or under or by virtue of any Commission or Warrant granted, or which may be granted, by His Majesty in His Majesty's name or under His Majesty's authority, which suspension shall continue and have effect only until His Majesty's pleasure therein shall be signified to the Governor by a Secretary of State. The Governor, in proceeding to any such suspension, shall observe the directions in that behalf given to him by any instructions from His Majesty or signified through a Secretary of State.

XI. The Governor, or in the absence of the Governor from the Northern Territories the Chief Commissioner, may, as he shall see occasion, when any crime has been committed within the Northern Territories, or for which the offender may be tried therein, grant a pardon, in His Majesty's name to any accomplice, not being the actual perpetrator of such crime, who shall give such information and evidence as shall lead to the apprehension and conviction of the principal offender; and further, may grant to any offender convicted of any crime in any court, or before any Judge, Justice, Magistrate, or other Officer within the Northern Territories a pardon, either free or subject to lawful conditions, or any respite of the execution of the sentence of any such offender, for such period as to the Governor, or in the absence of the Governor from the Northern Territories to the Chief Commissioner, may seem fit, and may remit any fines, penalties, or forfeitures which may become due and payable.

XII. This Order shall be published in the Gazette,* and shall thereupon come into operation, and the Governor shall give directions for the publication of this Order at such places, and in such manner, and for such time or times as he thinks proper for giving due publicity thereto within the Northern Territories.

XIII. His Majesty may from time to time revoke, alter, add to, or amend this Order.

And the Right Honourable Joseph Chamberlain, one of His Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

A. W. FitzRoy.

* This Order was published in the Gold Coast Gazette, January 1, 1902.

(iii) Lagos Protectorate.**ORDER IN COUNCIL AS TO BRITISH JURISDICTION IN TERRITORIES
ADJACENT TO THE COLONY OF LAGOS.**

At the Court at Osborne House, Isle of Wight, the 29th day of
December, 1887.

PRESENT :

The Queen's Most Excellent Majesty.
Lord President.
Sir Augustus Paget.
Mr. Ritchie.

Whereas by the Foreign Jurisdiction Act, 1843,* it was amongst other things enacted that it should be lawful for Her Majesty to hold, exercise, and enjoy any power or jurisdiction which Her Majesty then had, or might at any time thereafter have, within any country or place out of Her Majesty's dominions in the same and as ample a manner as if Her Majesty had acquired such power or jurisdiction by the cession or conquest of territory :]

And whereas by certain Letters Patent under the Great Seal of the United Kingdom of Great Britain and Ireland, bearing date at Westminster the 13th day of January, 1886,† Her Majesty's Settlement of Lagos was constituted and erected into a Colony, under the title of the Colony of Lagos, and a Legislative Council was appointed for the said Colony with certain powers and authority to legislate for the said Colony as by the said Letters Patent will more fully appear :

And whereas Her Majesty hath acquired power and jurisdiction within divers countries on the West Coast of Africa near or adjacent to Her Majesty's said Colony of Lagos, and it is expedient to determine the mode of exercising such power and jurisdiction :

Now, therefore, Her Majesty is pleased by and with the advice of Her Privy Council, to order as follows :—

1. If shall be lawful for the Legislative Council for the time being of the Colony of Lagos, by ordinance or ordinances to exercise and provide for giving effect to all such powers and jurisdiction as Her Majesty may, at any time before or after the passing of this Order in Council, have acquired in the said territories adjacent to the Colony of Lagos.

2. The Governor for the time being of the Colony of Lagos shall have a negative voice in the passing of all such ordinances as aforesaid. And the right is hereby reserved to Her Majesty, Her heirs and successors, to disallow any such ordinances as aforesaid in whole or in part, such disallowance being signified to the said Governor through one of Her Majesty's Principal Secretaries of State, and also to make and establish from time to time, with the

* 6 & 7 Vict. c. 94 ; now repealed and consolidated with other Acts by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

† Printed under the title "Lagos."

advice or consent of Parliament, or with the advice of Her or their Privy Council, all such laws or ordinances as may to Her or them appear necessary for the exercise of such powers and jurisdiction as aforesaid as fully as if this Order in Council had not been made.

3. In the making and establishing all such ordinances, the said Legislative Council shall conform to and observe all such rules and regulations as may from time to time be appointed by any instruction or instructions issued by Her Majesty under Her Sign Manual and Signet, and, until further directed, the instructions in force for the time being as to ordinances passed by the said Legislative Council for the peace, order, and good government of the said Colony of Lagos, shall, so far as they may be applicable, be taken and deemed to be in force in respect of ordinances passed by the said Council by virtue of this Order in Council.

4. In the construction of this Order in Council the term "Governor" shall include the officer for the time being administering the Government of the said Colony of Lagos.

And the Right Hon. Sir Henry Holland, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

THE LAGOS PROTECTORATE ORDER IN COUNCIL, 1901.

1901. No. 589.

At the Court at St. James's, the 24th day of July, 1901.

PRESENT :

The King's Most Excellent Majesty in Council.

Whereas His Majesty hath acquired power and jurisdiction within divers countries on the West Coast of Africa, near or adjacent to His Majesty's Colony of Lagos.

And whereas by an Order in Council of Her late Majesty Queen Victoria bearing date the 29th day of December, 1887,* it was provided that it should be lawful for the Legislative Council for the time being of the Colony of Lagos, by Ordinance or Ordinances, to exercise and provide for giving effect to all such powers and jurisdiction as Her Majesty might, at any time before or after the passing of the said Order in Council, have acquired in the said territories adjacent to the Colony of Lagos, subject to such provisions as are in the said Order in Council described and set forth :

And whereas by a further Order of Her late Majesty in Council, bearing date the 27th December, 1899,† provision was made for the exercise of Her Majesty's jurisdiction within the territories therein described and set forth :

* Printed above, p. 150.

† Printed in Statutory Rules and Orders, 1899, p. 625.

And whereas the said last recited Order has never been brought into operation within the said territories, and it is expedient that the said Order should be revoked :

And whereas it is expedient to define the limits within which the powers and jurisdiction of His Majesty in the said territories under the provisions of the Order in Council of the 29th December, 1887, shall in future be exercised :

Now, therefore, His Majesty, in pursuance of the powers by the Foreign Jurisdiction Act, 1890, or otherwise in His Majesty vested, by and with the advice of His Privy Council, is pleased to order, and it is hereby ordered, as follows :—

I. This Order may be cited as the “Lagos Protectorate Order in Council, 1901.”

II. Subject to the provisions of the said Order in Council of the 29th December, 1887, the Legislative Council for the time being of the Colony of Lagos may, by Ordinance or Ordinances, exercise and provide for giving effect to all such powers and jurisdiction as His Majesty may, at any time either before or after the passing of this Order, have acquired or may acquire within such of the territories of the West Coast of Africa near or adjacent to the Colony of Lagos as are within the limits of this Order.

Provided that nothing in any such Ordinance or Ordinances contained shall take away or affect any rights secured to any natives in the said territories by any treaties or agreements made on behalf or with the sanction of His Majesty, and that all such treaties and agreements shall be and remain operative and in force, and that all pledges and undertakings therein contained shall remain mutually binding on all parties to the same.

III. The limits of this Order are the territories of Africa which are bounded on the south by the Atlantic Ocean, on the west by the line of the frontier between the British and French possessions, on the north and north-east by the British Protectorate of Northern Nigeria, and on the east by the British Protectorate of Southern Nigeria.

Provided always, that such parts of the territories so bounded as are within that portion of His Majesty's Dominions which is known as the Colony of Lagos, shall not be included within the limits of this Order. The territories within the limits of this Order shall be known and described as the Lagos Protectorate.

IV. The Order of Her late Majesty Queen Victoria in Council of the 27th December, 1899, is hereby revoked.

V. This Order shall be published in the Gazette * of the Colony of Lagos, and shall thereupon commence and come into operation ; and the Governor shall give directions for the publication of this Order at such places, and in such manner, and for such time or

* This Order was published in the (Extraordinary) Government Gazette of the Colony of Lagos, No. 42, of August 27, 1901.

times as he thinks proper for giving due publicity thereto within the Lagos Protectorate.

And the Right Honourable Joseph Chamberlain, one of His Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

A. W. FitzRoy.

(iv) Northern Nigeria Protectorate.

THE NORTHERN NIGERIA ORDER IN COUNCIL, 1899.

1899. No. 994.

At the Court at Windsor, the 27th day of December, 1899.

PRESENT :

The Queen's Most Excellent Majesty.

His Royal Highness the Duke of Connaught and Strathearne.

Mr. Balfour.

Mr. Ritchie.

Whereas the territories of West Africa situate within the limits of this Order, as hereinafter described, are under the protection of Her Majesty the Queen :

And whereas by treaty, grant, usage, sufferance, and other lawful means, Her Majesty has power and jurisdiction in the said territories :

And whereas by Her Majesty's Royal Charter dated the 10th day of July, 1886,* the National African Company, Limited (in the said Charter and hereinafter referred to as "the Company"), was authorised and empowered to hold and retain the full benefit of the several cessions of territories in the basin of the River Niger in Africa therein recited to have been made to the Company by the various Acts of cession or treaties specified in the Schedule to the said Charter or any of them, and all rights, interests, authorities, and powers for the purpose of government, preservation of public order, protection of the said territories or otherwise of what nature or kind soever, under or by virtue thereof or resulting therefrom and ceded to or vested in the Company in, over, or affecting the territories, lands, and property comprised in those several cessions, or in, over, or affecting any territories, lands, or property in the neighbourhood of the same, and to hold, use, enjoy, and exercise the same territories, lands, property, rights, interests, authorities, and powers respectively, for the purposes of the Company and on the terms of the said Charter :

And whereas the said Company were further authorised and empowered, subject to the approval of a Secretary of State, to acquire and take by purchase, cession, or other lawful means other rights, interests, authorities, or powers of any kind or nature whatever, in, over, or affecting the territories, lands, or property comprised in the several treaties aforesaid, or any rights, interests, authorities, or powers of any nature or kind whatever in, over,

* Printed in Hertalet's "British and Foreign State Papers," Vol. 77, p. 1022.

or affecting other territories, lands, or property in the region aforesaid, and to hold, use, enjoy, and exercise the same for the purposes of the Company, and on the terms of the said Charter :

And whereas by the said Charter it was declared that in case at any time it should be made to appear to Her Majesty in Council expedient that the said Charter should be revoked, it should be lawful for Her Majesty, her heirs and successors, and Her Majesty did thereby expressly reserve the right and power by writing under the Great Seal of the United Kingdom, to revoke the said Charter :

And whereas pursuant to the authority in that behalf given to the Company by the said Charter, the Company, with the approval of a Secretary of State, acquired by treaties, cessions, or other lawful means divers further rights, interests, authorities, or powers in, over, or affecting the territories, lands, and property comprised in the several treaties mentioned or referred to in the said Charter, and divers rights, interests, authorities, and powers in, over, or affecting other territories, lands, and property in the region aforesaid :

And whereas the name of the Company was, with the previous approval of a Secretary of State, changed from the National African Company, Limited, to the Royal Niger Company, Chartered and Limited :

And whereas it appeared to Her Majesty in Council expedient that the said Charter should be revoked, and Her Majesty, by and with the advice of Her Privy Council, in exercise of the power for that purpose given or reserved to her by the said Charter and of every other power thereunto enabling her, has revoked the said Charter and all the powers, rights, liberties, and authorities thereby given to the Company, and every clause, matter, and thing in the said Charter contained, without prejudice to anything duly or lawfully done or any rights, interests, authorities, or powers duly or lawfully acquired by the Company under or by virtue of the said Charter, or any of the powers, rights, liberties, and authorities thereby given to the Company previously to the revocation thereof :

And whereas it is necessary to provide for the peace, order, and good government of the territories aforesaid, and to appoint a High Commissioner for the said territories :

Now, therefore, Her Majesty, by virtue and in exercise of the powers by the Foreign Jurisdiction Act, 1890,* or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

I. This Order may be cited as the Northern Nigeria Order in Council, 1899.

II. The limits of this Order are the territories of Africa bounded by the following line, namely, a line commencing at the point of intersection of the River Okpara with the ninth degree of north latitude, and then proceeding in a northerly direction along a line passing west of the lands belonging to the following places, viz., Tabira, Okuta (Okouta), Boria, Tere, Gbani, Ashigere (Yassi-

* 53 & 54 Vict. c. 37.

kera), and Dekala. From the most westerly point of the lands belonging to Dekala the line runs in a northerly direction, coinciding as far as possible with the line indicated on the map marked No. 1 which is attached to the Convention with France of the 14th of June, 1898, and strikes the right bank of the Niger at a point situated 10 miles (16,093 metres) up-stream from the centre of the town of Gere (Guiris) (the port of Ilo), measured as the crow flies. From this point the line runs at right angles to the right bank of the Niger as far as its intersection with the median line of the river. It then follows the median line of the river, up-stream, as far as its intersection with a line drawn perpendicularly to the left bank from the median line of the mouth of the depression or dry watercourse, called the Dallul Mauri, situated at a distance of about 17 miles (27,359 metres), measured as the crow flies, from a point on the left bank opposite the above-mentioned village of Gere (Guiris). From this point of intersection the line follows this perpendicular till it meets the left bank of the river, and then follows the median line of the Dallul Mauri until it meets the circumference of a circle drawn from the centre of the town of Sokoto with a radius of 100 miles (160,932 metres). From this point it follows the northern arc of this circle as far as its second intersection with the 14th parallel of north latitude. From this second point of intersection it follows this parallel eastward for a distance of 70 miles (112,652 metres); then proceeds due south until it reaches the parallel of 13° 20' north latitude, then eastward along this parallel for a distance of 250 miles (402,230 metres); then due north until it regains the 14th parallel of north latitude; then eastwards along this parallel as far as its intersection with the meridian passing 35' east of the centre of the town of Kuka, and thence this meridian southward until its intersection with the southern shore of Lake Chad. From this point the line goes direct to the point of intersection of the 13th degree of longitude east of Greenwich and the 10th degree of north latitude, and thence in a south-easterly direction to a point on the left or southern bank of the River Benue, which it crosses, five kilometres below the centre of the main mouth of the Faro River. Thence the line follows, south of the Benue, the circumference of a circle, the centre of which is the centre of the town of Yola as it existed in 1893, and the radius of which is the distance between the centre of the town of Yola and the point on the left bank of the Benue five kilometres below the centre of the main mouth of the Faro River, until the circumference meets a straight line drawn from the point on the right bank of the Old Calabar or Cross River, marked "Rapids" in the English Admiralty chart, direct towards the centre of the town of Yola. It then follows that line in a south-westerly direction to a point near Ashaku, whence it runs west to Idda on the Niger, leaving Takum to the north. From Idda, which it leaves to the south, the line runs west to Owo, leaving to the south the Benin territories, and then northward to the frontier of the Kabba district, whence it passes westward through Aiedi, Awton, and Illa, leaving to the north the towns subject to Ilorin and to the south the towns subject to Ibadan or Oyo.

Thence it runs in a north-westerly direction along the frontier of Ilorin past Odo, Otin, and Ikirun, both of which it leaves to the south, until the frontier of Ilorin meets the ninth parallel of north latitude. It then runs west, leaving all Borgu towns to the north and all Yoruba towns to the south, as far as the point of intersection of the Okpara River with the ninth parallel of north latitude.

The territories so bounded shall be known as Northern Nigeria.

III. In this Order, unless the subject or context otherwise requires—

“Her Majesty” includes Her Majesty’s heirs and successors.

“Secretary of State” means one of Her Majesty’s Principal Secretaries of State.

“Treaty” includes any existing or future Treaty, Convention, Agreement, or Arrangement, made by or on behalf of Her Majesty with any civilised Power or with any native tribe, people, Chief or King, and any Regulation appended to any such Treaty, Convention, Agreement, or Arrangement.

“Gazette” means any official Gazette published by authority of the High Commissioner and, until such Gazette is instituted, means the London Gazette.

IV. Her Majesty may appoint a High Commissioner for Northern Nigeria, and such High Commissioner may, on Her Majesty’s behalf, exercise all powers and jurisdiction which Her Majesty, at any time before or after the date of this Order, had, or may have, within Northern Nigeria, and to that end may take or cause to be taken all such measures, and may do or cause to be done all such matters and things therein as are lawful, and as in the interest of Her Majesty’s service he may think expedient, subject to such instructions as he may from time to time receive from Her Majesty, or through a Secretary of State.

V. Subject to the approval of a Secretary of State, the High Commissioner may appoint so many fit persons as, in the interest of Her Majesty’s service, he may think necessary to be Deputy Commissioners, Residents, Assistant Residents, Judges, Magistrates, or other Officers, and may define from time to time the districts within which such Officers shall respectively discharge their functions.

Every such Officer may exercise such powers and authorities as the High Commissioner may, with the like approval, assign to him, subject nevertheless to such directions and instructions as the High Commissioner may from time to time think fit to give him. The appointment of such Officers shall not abridge, alter, or affect the right of the High Commissioner to execute and discharge all the powers and authorities hereby conferred upon him.

The High Commissioner may, subject to confirmation by a Secretary of State, remove any Officer so appointed.

VI. In the exercise of the powers and authorities hereby conferred upon him, the High Commissioner may, amongst other things, from time to time by proclamation, provide for the administration of justice, the raising of revenue, and generally for the peace, order, and good government of Northern Nigeria, and of all persons therein, including the prohibition and punishment of acts tending to disturb the public peace.

The High Commissioner, in issuing such Proclamations, shall respect any native laws by which the civil relations of any native Chiefs, tribes, or populations under Her Majesty's protection are now regulated, except so far as the same may be incompatible, with the due exercise of Her Majesty's power and jurisdiction, or clearly injurious to the welfare of the said natives.

VII. Every Proclamation of the High Commissioner shall be published in the Gazette, and shall, from and after a date to be mentioned in such Proclamation, and thereafter until disallowed by Her Majesty or repealed or modified by any subsequent Proclamation, have effect as if contained in this Order, and the High Commissioner shall take such measures as he thinks proper for giving due publicity thereto within Northern Nigeria.

VIII. Her Majesty may disallow any such Proclamation wholly or in part and may signify such disallowance by Order in Council or through a Secretary of State, and upon such disallowance being publicly notified in the Gazette, the provisions so disallowed shall, from and after a date to be mentioned in such notification, cease to have effect, but without prejudice to any thing theretofore lawfully done thereunder. Due notification shall be publicly made by the High Commissioner within Northern Nigeria of the disallowance of any such Proclamation.

IX. There shall be a Public Seal of and for Northern Nigeria which the High Commissioner shall keep and use for sealing all things whatsoever that shall pass the said seal; provided that until a Public Seal shall be provided, the private seal of the High Commissioner may be used as the Public Seal of Northern Nigeria.

X. The High Commissioner may, upon sufficient cause to him appearing, suspend from the exercise of his office any person holding or exercising any office within Northern Nigeria, whether appointed by the High Commissioner or under or by virtue of any Commission or Warrant granted, or which may be granted, by Her Majesty in Her Majesty's name or under Her Majesty's authority, which suspension shall continue and have effect only until Her Majesty's pleasure therein shall be signified to the High Commissioner by a Secretary of State. The High Commissioner, in proceeding to any such suspension, shall observe the directions in that behalf given to him by any instructions from Her Majesty or signified through a Secretary of State.

XI. The High Commissioner may, as he shall see occasion, when any crime has been committed within Northern Nigeria, or for which the offender may be tried therein, grant a pardon, in Her Majesty's name, to any accomplice, not being the actual

perpetrator of such crime, who shall give such information and evidence as shall lead to the apprehension and conviction of the principal offender; and further, may grant to any offender convicted of any crime in any court, or before any judge, justice magistrate, or other officer within Northern Nigeria, a pardon, either free or subject to lawful conditions, or any respite of the execution of the sentence of any such offender, for such period as to the High Commissioner may seem fit, and may remit any fines, penalties, or forfeitures, which may become due and payable.

XII. Subject to the provisions of this Order or of any Proclamation made under this Order, all Statutes, Orders in Council, Rules, Regulations, or Treaties, together with any jurisdiction exercisable thereunder, whether exercisable by Her Majesty or by any person on Her behalf, or by any Court within Northern Nigeria, or under any Commission, or under any Charter granted by Her Majesty, which at the commencement of this Order are in force within the limits of this Order or any part of such limits, shall remain in full force, and every suit, action, complaint, matter or thing, civil or criminal, which shall be depending in any court within Northern Nigeria at the commencement of this Order, shall and may be proceeded with in such court in like manner as if this Order had not been passed.

XIII. In the event of the death, incapacity, absence, or removal of the High Commissioner from Northern Nigeria, all and every the powers and authorities herein granted to him shall, until Her Majesty's further pleasure is signified therein be vested in such person or persons as may be appointed by Her Majesty; and in case there shall be no person or persons so appointed by Her Majesty, then in the Senior Officer for the time being in command of the West African Frontier Force within Northern Nigeria.

XIV. From and after the coming into operation of this Order, the provisions of the Africa Order in Council, 1889,* shall cease to apply to Northern Nigeria, without prejudice to anything lawfully done thereunder.

XV. This Order shall be published in the Gazette,† and shall come into operation on the First day of January, 1900, and the High Commissioner shall give directions for the publication of this Order, at such places, and in such manner, and for such time or times as he thinks proper for giving due publicity thereto within Northern Nigeria.

XVI. Her Majesty may from time to time revoke, alter, add to, or amend this Order.

The Right Honourable Joseph Chamberlain, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

A. W. FitzRoy.

* Printed at pp. 1-35 above.

† This Order was published in the "London Gazette," January 5, 1900.

ORDER IN COUNCIL APPLYING THE COLONIAL PRISONERS REMOVAL ACT, 1884,* TO THE PROTECTORATE OF NORTHERN NIGERIA.

1902. No. 204.

At the Court at St. James's, the 6th day of March, 1902.

PRESENT :

The King's Most Excellent Majesty.

Lord President.
Earl of Kintore.

Lord James of Hereford.
Sir Arthur Wilson.

Whereas it is provided by the Colonial Prisoners Removal Act, 1884, that it shall be lawful for His Majesty in Council from time to time to direct that the said Act shall apply as if, subject to the conditions, exceptions, and qualifications (if any) contained in the Order, any place out of His Majesty's Dominions in which His Majesty has jurisdiction and which is named in the Order, were a British possession and part of His Majesty's dominions, and to provide for carrying into effect such application :

And whereas His Majesty has power and jurisdiction within the Protectorate of Northern Nigeria :

Now, therefore, His Majesty, in pursuance and exercise of the powers in this behalf by the said Act of Parliament or otherwise in Him vested, is pleased, by and with the advice of His Privy Council to order, and it is hereby ordered, as follows:—

1. The Colonial Prisoners Removal Act, 1884, shall apply to and take effect within the Protectorate of Northern Nigeria, as if that Protectorate were a British possession and part of His Majesty's Dominions.
2. In order to carry out the application of the said Act to the Protectorate of Northern Nigeria, the High Commissioner, or any person or persons lawfully discharging the functions of High Commissioner may exercise all powers vested by the said Act in the Governor of a British possession.

A. W. FitzRoy.

THE NIGER NAVIGATION ORDER IN COUNCIL, 1903.

1903. No. 671.

At the Court at Buckingham Palace, the 10th day of August, 1903.

PRESENT :

The King's Most Excellent Majesty.

Lord President.
Earl of Kintore.

Lord Balfour of Burleigh.

Whereas it is expedient to make provision for regulating the navigation of the River Niger and its tributaries :

* 47 & 48 Vict. c. 31.

Now, therefore, His Majesty, by virtue and in exercise of the powers by the Foreign Jurisdiction Act, 1890,* or otherwise in His Majesty vested, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. This Order may be cited as the Niger Navigation Order in Council, 1903.

2. In this Order and in any regulations made under this Order unless the context otherwise requires—

The expression "The British Niger Territory" includes the Protectorates of Northern Nigeria and Southern Nigeria as the same are respectively described and delimited by the Northern Nigeria Order in Council, 1900,† and the Southern Nigeria Order in Council, 1900.‡

The expression "River Niger," shall include the River Niger and all its affluents, branches, and outlets within the British Niger Territory.

"Vessel" includes any kind of ship, boat, lighter, canoe or raft, other than a public ship.

"Secretary of State" means one of His Majesty's Principal Secretaries of State.

The expression "Court of Competent Jurisdiction" means any Court empowered under the law of Northern or Southern Nigeria (as the case may be) to impose for any offence the punishment of imprisonment for six months.

3. Subject to the provisions of this Order and of any regulations made under this Order, vessels navigating the River Niger shall in all respects be subject to the law in force in that portion of the British Niger Territory in which they may happen from time to time to be.

4. It shall be lawful for a Secretary of State from time to time to make rules for the safety and control of navigation and for the imposition and collection of taxes, duties, and tolls for services rendered to navigation, and also, as occasion may require, to alter, amend, or revoke all or any of such rules. All such rules and such alterations, amendments, and revocations thereof shall have the same force and effect for all purposes as if the same had been made by this Order and shall come into operation in such manner and on such date as shall be provided by such rules.

5. Every person who acts in contravention of this Order or of any rules made thereunder shall upon conviction be liable to a penalty not exceeding £200 or to imprisonment for a period not exceeding six months.

6. A Court of Competent Jurisdiction may order any person who is within the local limits of its jurisdiction and is charged with an offence committed in any part of the British Niger

* 53 & 54 Vict. c. 37.

† This reference is to the Northern Nigeria Order in Council, 1899, printed at p. 153 above.

‡ This reference is to the Southern Nigeria Order in Council, 1899, printed at p. 167 below.

Territory against this Order or of any rule made in pursuance of the provisions thereof, to be brought before it and enquire of, hear and determine such charge as if such offence had been committed within the local limits of the jurisdiction of such Court.

7. The High Commissioners of the Protectorates of Northern and Southern Nigeria shall cause this Order to be published in the respective Gazettes * of the said Protectorates on the same day and this Order shall come into operation on that date.

8. His Majesty may from time to time revoke, alter, or amend this Order.

A. W. FitzRoy.

THE NIGER TRANSIT ORDER IN COUNCIL, 1903.

1903. No. 672.

At the Court at Buckingham Palace, the 10th day of August, 1903.

PRESENT :

The King's Most Excellent Majesty.

Lord President.

Earl of Kintore.

Lord Balfour of Burleigh.

Whereas it is expedient to make provision for the passing of vessels and of goods in transit between the sea and places beyond the British Niger Territory (as hereinafter defined) :

Now, therefore, His Majesty, by virtue and in exercise of the powers by the Foreign Jurisdiction Act, 1890,† or otherwise in His Majesty vested, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. This Order may be cited as the Niger Transit Order in Council, 1903.

2. In this Order and in any Regulations made under this Order, unless the context otherwise requires.

The expression "The British Niger Territory" includes the Protectorate of Northern Nigeria and of Southern Nigeria as the same are respectively described and delimited by the Northern Nigeria Order in Council, 1900,‡ and the Southern Nigeria Order in Council, 1900.§

The expression "River Niger" shall include the River Niger and all its affluents, branches, and outlets within the British Niger Territory.

The expression "Customs authority" includes any official of the Protectorates of Northern or Southern Nigeria deputed or directed by the respective High Commissioners of such Protec-

* This Order was published in the Southern Nigeria Government Gazette, January 5, 1904.

† 53 & 54 Vict c. 37.

‡ This reference is to the Northern Nigeria Order in Council, 1899, printed at p. 163 above.

§ This reference is to the Southern Nigeria Order in Council, 1899, printed at p. 167 below.

torates or either of them to perform any of the duties or do any of the acts imposed upon the Customs authority.

"Vessel" includes any kind of ship, boat, lighter, canoe or raft, other than a public ship.

"Secretary of State" means one of His Majesty's Principal Secretaries of State.

3. Vessels and goods may pass in transit between the sea and places beyond the British Niger Territory subject to the Regulations contained in the Schedule, which shall come into operation at the commencement of this Order. Any such Regulations may be altered, amended, or revoked by a Secretary of State.

4. A Secretary of State may at any time make any other or additional Regulations for carrying this Order into effect and may from time to time alter, amend, or revoke all or any of such Regulations as occasion may require. All such rules and such alterations, amendments, and revocations thereof shall have the same force and effect for all purposes as if the same had been made by Order in Council, and shall come into operation in such manner and on such date as shall be provided by such Regulations.

5. Every person who acts in contravention of this Order or of any Regulations made thereunder shall upon conviction be liable to a penalty not exceeding £200 or to imprisonment for a period not exceeding six months.

6. Any Court of competent jurisdiction of either of the Protectorates of Northern or Southern Nigeria which is empowered under the law of Northern or Southern Nigeria (as the case may be) to impose for any offence the punishment of imprisonment for six months may order any person who is within the local limits of its jurisdiction and is charged with an offence committed in any part of the British Niger Territory against this Order or of any Regulation made in pursuance of the provisions thereof, to be brought before that Court and enquire of, hear and determine such charge as if such offence had been committed within the local limits of the jurisdiction of such Court.

7. Subject to the provisions of this Order and of any Regulations made under this Order goods and vessels in transit shall in all respects be subject to the law in force in that portion of the British Niger Territory in which the said vessels or goods may happen from time to time to be, including any Sanitary Regulations respecting human, animal, or plant life.

8. The respective High Commissioners of the Protectorates of Northern Nigeria and Southern Nigeria shall cause this Order and the Regulations in the Schedule to be published in the respective Gazettes * of the said Protectorates on the same day, and this Order and the Regulations contained in the Schedule to this Order shall come into operation on that date.

9. His Majesty may from time to time revoke, alter, or amend this Order.

A. W. FitzRoy.

* This Order was published in the Southern Nigeria Government Gazette, January 5, 1904.

Schedule.

REGULATIONS.

1. Any vessel passing in transit between the sea and places beyond the British Niger Territory shall enter and clear in transit at the first of the Customs stations hereinafter named to which she comes after entering the British Niger Territory. The clearance papers shall state the nationality of the vessel together with her name, port of registry, tonnage, port of origin and of destination, the place at which it is intended that the vessel shall leave the British Niger Territory, and whether the vessel is in ballast or cargo, and the name of the master. The papers proving the nationality and status of the vessel shall on the demand of the Customs authority be produced for inspection.

2. If the conditions laid down in the preceding Regulations have been complied with the Customs authority shall deliver to the Master a transit certificate on which shall be indicated the name of the station at which it is to be given up ; provided always that if there are goods upon such vessel the Customs authority shall first cause seals to be placed on them or on the hatches or holds of the vessel or otherwise so as not to delay her.

3. The transit certificate shall be shown to the Customs authority on demand, provided that this formality shall not involve any obligation in regard to landing station or depôt or breaking bulk, or in regard to entry into any particular port.

4. The certificate shall free the vessel from all further formalities so long as no goods are landed or shipped in the British Niger Territory and so long as no breach of the law of any portion of the British Niger Territory is committed.

5. A vessel declared as in transit as hereinbefore shall not land or ship goods in the British Niger Territory except under the conditions prescribed in Regulation 15.

6. Vessels in transit shall fly special flags, namely, the flags representing the letters Y.A.C. in the International Code of Signals, and shall at night display special lights, namely, two red lights, one above the other, three feet apart and not less than three feet above the ordinary mast head light.

7. A vessel in transit may touch at ports of entry and other provisioning stations in the British Niger Territory to take in fuel, provisions, and other necessaries, the taking on board of such necessaries shall not be held to be a shipping of goods, and the said necessaries shall not be held to be goods within the meaning of these Regulations.

8. The transit certificate shall be given up to the officer authorised to receive such certificates at the Customs station mentioned thereon.

9. Goods passing in transit between the sea and places beyond the British Niger Territory shall be declared as in transit at the first of the Customs stations hereinafter named to which they are brought after entering the British Niger Territory ; a manifest or schedule shall there be delivered in duplicate to the Customs authority stating the nationality, the value at place of entry, and the nature, origin and destination of the goods, the place at which it is intended that they shall leave the British Niger Territory, and their weight or quantity if in bulk, or if not in bulk, the weight, number and distinctive numbers and marks of the parcels together with the name and address of the person within the British Niger Territory who is in charge of the goods and is a responsible agent for them.

10. One of the manifests or schedules shall be retained by the Customs authority and the other, visé by that authority, shall be returned to the agent in charge of the goods.

The manifest or schedule shall constitute the transit certificate for the

goods and shall be shown to any official of the British Niger Territory on demand, provided that this formality shall not involve any obligation in regard to landing station or depôt, or breaking bulk, or in regard to entry into any particular port.

11. The Customs authority shall indicate on the manifest or schedule the name of the station at which it is to be given up, and the manifest or schedule shall be delivered accordingly to the officer authorised to receive the same at that station.

12. If any change is made in the weight, amount, shape, size, number or marks of the goods entered on any certificate, a fresh transit certificate or certificates shall be obtained from an officer of the British Niger Territory authorised to issue such certificates in the same manner as on the entry of the goods into the British Niger Territory. The old certificate shall be given up to the officer from whom the fresh certificate is received.

13. Goods in transit shall be sealed or otherwise secured by the Customs authority at the Customs station of entry, and except in accordance with the provisions of the last preceding Regulation the seals or other fastenings shall not be removed except by that authority at the exit station, and must there be presented intact. A guard may also, at the discretion of the Customs authority, be sent with the goods, and such guard shall, on board ship, be properly accommodated.

14. The breaking of the seals or other fastenings either by accident or by any other cause beyond the control of the agent in charge of the goods shall not be held to be an infraction of these Regulations, but the agent in charge of the goods shall notify the fact to the nearest authority of the British Niger Territory, and if possible, to the Customs authority, and note shall be made of the occurrence and new seals or fastenings shall be affixed. The burden of proof that the breaking of seals or other fastenings was beyond the control of the agent shall rest with him.

15. Goods in transit shall not be landed, shipped, trans shipped, repacked, restowed or placed in bond except at places appointed for the purpose by notice by the Customs authority, and that authority may require those operations to be carried on under its supervision.

16. The provisions as to goods in transit apply to goods in transit partly by land and partly by a vessel cleared to or from either of the pieces of land leased to the French Government under Article VIII. of the Anglo-French Convention of June 14th, 1898, or any place or bonded warehouse appointed by the Customs authority. In this case the seals or other fastenings must be presented intact both at the inland place of shipping or landing and at the place where the transit certificate is given up. Regulations 12 and 15, among others, shall in particular apply.

17. The Customs authority may name a limit of time within which a vessel in transit shall, unless delayed by causes beyond control, leave the British Niger Territory, and a limit of time within which goods in transit shall, unless delayed by causes beyond control, leave the British Niger Territory or be there bonded or imported.

18. Goods declared as in transit shall be so packed or stowed as to facilitate verification and the placing of seals or other fastenings on the parcels or on the hatches or holds of the vessel. In case the placing of seals or other fastenings be not possible the goods must be so packed or stowed as to prevent fraud.

19. Goods in transit by land as provided for in Regulation 16 shall be carried by the route indicated by the Customs authority.

20. Vessels in transit and goods in transit shall pay no Customs duties, but they shall pay all other dues which are levied or which may hereinafter be levied in the British Niger Territory for services rendered.

21. Goods in transit may, under the control of the Customs authority and in conformity with the Customs Regulation of the British Niger Territory, be re-entered for importation at any port of entry.

22. All acts of supervision on the part of the Customs authorities in regard to goods or vessels in transit shall be free of charge to the master of the vessel or to the agent in charge of the goods.

23. The following places in the British Niger Territory shall for the purposes of these Regulations be Customs Stations:—

Forcados,
Brass,
Akassa,
Fort Goldie,
Yashikira,
Illo,
Yola.

(v) Sierra Leone Protectorate.

ORDER IN COUNCIL AS TO THE EXERCISE OF JURISDICTION IN TERRITORIES ADJACENT TO SIERRA LEONE.

1895. No. 397.

At the Court at Osborne House, Isle of Wight, the 24th day of
August, 1895.

PRESENT :

The Queen's Most Excellent Majesty.

Marquess of Salisbury.

Earl of Coventry.

Lord Arthur Hill.

Whereas by the Foreign Jurisdiction Act, 1890,* it was amongst other things enacted that it should be lawful for Her Majesty to hold, exercise, and enjoy any jurisdiction which her Majesty then had, or might at any time thereafter have, within a foreign country, in the same and as ample a manner as if Her Majesty had acquired that jurisdiction by the cession or conquest of territory :

And whereas by certain Letters Patent under the Great Seal of the United Kingdom of Great Britain and Ireland, bearing date at Westminster the 28th day of November, 1888,† Her Majesty's settlement of Sierra Leone was erected into a separate colony, to be called the Colony of Sierra Leone, and by the said Letters Patent provision was made for establishing a Legislative Council for the said Colony of Sierra Leone, with certain powers and authority to legislate for the said colony as by the said Letters Patent will more fully appear :

And whereas Her Majesty hath acquired jurisdiction within divers foreign countries on the West Coast of Africa, near or adjacent to Her Majesty's said Colony of Sierra Leone, and it is expedient to determine the mode of exercising such jurisdiction :

* 53 & 54 Vict c. 37.

† Printed under the title "Sierra Leone."

Now, therefore, Her Majesty is pleased, by and with the advice of Her Privy Council, to order as follows :

1. It shall be lawful for the Legislative Council for the time being of the Colony of Sierra Leone, by Ordinance or Ordinances, to exercise and provide for giving effect to all such jurisdiction as Her Majesty may, at any time before or after the passing of this Order in Council, have acquired in the said territories adjacent to the Colony of Sierra Leone.

2. The governor for the time being of the Colony of Sierra Leone shall have a negative voice in the passing of all such Ordinances as aforesaid. And the right is hereby reserved to Her Majesty, Her Heirs and successors, to disallow any such Ordinances as aforesaid, in whole or in part, such disallowance being signified to the said governor through one of Her Majesty's Principal Secretaries of State, and also to make and establish from time to time, with the advice and consent of Parliament, or with the advice of Her or their Privy Council, all such Laws or Ordinances as may to Her or them appear necessary for the exercise of such jurisdiction as aforesaid as fully as if this Order in Council had not been made.

3. In the making and establishing all such Ordinances, the said Legislative Council shall conform to and observe all such rules and regulations as may from time to time be appointed by any instruction or instructions issued by Her Majesty under Her sign manual and signet, and, until further directed, the instructions in force for the time being as to Ordinances passed by the said Legislative Council for the peace, order, and good government of the said Colony of Sierra Leone shall, so far as they may be applicable, be taken and deemed to be in force in respect of Ordinances passed by the said Council by virtue of this Order in Council.

4. The Courts of the Colony of Sierra Leone shall have in respect of matters occurring within the said territories adjacent to the said colony, so far as such matters are within the jurisdiction of Her Majesty, the same jurisdiction, civil and criminal, original and appellate, as they respectively possess from time to time in respect of matters occurring within the said Colony, and the judgments, decrees, orders, and sentences of any such Court made or given in the exercise of the jurisdiction hereby conferred may be enforced and executed, and appeals therefrom may be had and prosecuted in the same way as if the judgment, decree, order, or sentence had been made or given under the ordinary jurisdiction of the Court.

5. In the construction of this Order in Council the term "governor" shall include the officer for the time being administering the government of the Colony of Sierra Leone.

And the Right Honourable Joseph Chamberlain, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

(vi) Southern Nigeria Protectorate.

THE SOUTHERN NIGERIA ORDER IN COUNCIL, 1899.
1899. No. 995.

At the Court at Windsor, the 27th day of December, 1899.

PRESENT :

The Queen's Most Excellent Majesty.

His Royal Highness the Duke of Connaught and Strathearne.

Mr. Balfour.

Mr. Ritchie.

Whereas the territories of West Africa situate within the limits of this Order, as hereinafter described, are under the protection of Her Majesty the Queen :

And whereas by treaty, grant, usage, sufferance, and other lawful means, Her Majesty has power and jurisdiction in the said territories :

And whereas certain of the said territories were formally known as the Oil Rivers Protectorate :

And whereas on the 13th day of May, 1893, the name of the said " Oil Rivers Protectorate " was changed to that of the " Niger Coast Protectorate " :

And whereas by Her Majesty's Royal Charter dated the 10th day of July, 1886,* the National African Company, Limited (in the said Charter and hereinafter referred to as " the Company "), were authorised and empowered to hold and retain the full benefit of the several cessions of territories in the basin of the River Niger in Africa therein recited to have been made to the Company by the various Acts of Cession or Treaties specified in the Schedule to the said Charter, or any of them, and all rights, interests, authorities, and powers for the purpose of Government, preservation of public order, protection of the said territories, or otherwise of what nature or kind soever, under or by virtue thereof or resulting therefrom and ceded to or vested in the Company, in, over, or affecting the territories, lands, and property comprised in those several cessions, or in, over, or affecting any territories, lands, or property in the neighbourhood of the same, and to hold, use, enjoy, and exercise the same territories, lands, property, rights, interest, authorities, and powers respectively, for the purposes of the Company and on the terms of the said Charter :

And whereas the Company were further authorised and empowered, subject to the approval of a Secretary of State, to acquire and take by purchase, cession, or other lawful means, other rights, interests, authorities, or powers of any kind or nature whatever, in, over, or affecting the territories, lands, or property comprised in the several treaties aforesaid, or any rights, interests, authorities, or powers of any nature or kind whatever, in, over, or affecting other territories, lands, or property in the region aforesaid, and

* Printed in Hertslet's " British and Foreign State Papers," Vol. 77, p. 1022.

to hold, use, enjoy, and exercise the same for the purposes of the Company, and on the terms of the said Charter :

And whereas by the said Charter it was declared that in case at any time it should be made to appear to Her Majesty in Council expedient that the said Charter should be revoked, it should be lawful for Her Majesty, her heirs and successors, and Her Majesty did thereby expressly reserve the right and power by writing under the Great Seal of the United Kingdom, to revoke the said Charter :

And whereas, pursuant to the authority in that behalf given to the Company by the said Charter, the Company with the approval of a Secretary of State, acquired by treaties, cessions, or other lawful means divers further rights, interests, authorities, or powers in, over, or affecting the territories, lands, and property comprised in the several treaties mentioned or referred to in the said Charter, and divers rights, interests, authorities, and powers in, over, or affecting other territories, lands, and property in the region aforesaid :

And whereas the name of the Company was, with the previous approval of a Secretary of State, changed from The National African Company, Limited, to The Royal Niger Company, Chartered and Limited :

And whereas it appeared to Her Majesty in Council expedient that the said Charter should be revoked, and Her Majesty, by and with the advice of Her Privy Council, in exercise of the power for that purpose given or reserved to her by the said Charter and of every other power hereunto enabling her, has revoked the said Charter and all the powers, rights, liberties, and authorities thereby given to the Company, and every clause, matter, and thing in the said Charter contained, without prejudice to anything duly or lawfully done, or any rights, interests, authorities, or powers duly or lawfully acquired by the Company under or by virtue of the said Charter, or any of the powers, rights, liberties, and authorities thereby given to the Company previously to the revocation thereof :

And whereas it is intended that certain of the territories formerly administered by the Company should be added to the said Niger Coast Protectorate, and that such territories, together with the said Niger Coast Protectorate, should henceforth be known as the Protectorate of Southern Nigeria :

And whereas it is necessary to provide for the peace, order, and good government of the said Protectorate of Southern Nigeria, and to appoint a High Commissioner for the same :

Now, therefore, Her Majesty, by virtue and in exercise of the powers by the Foreign Jurisdiction Act, 1890, or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

I. This Order may be cited as the Southern Nigeria Order in Council, 1899.

II. The limits of this Order are the territories of Africa bounded by the following line, namely, a line commencing on the Coast of the Gulf of Guinea at the mouth of the Rio del Rey Creek, the

right bank of which it follows to the head of the creek, that is, to the north-west end of the island lying to the west of Oron, where the two waterways, named Urufian and Ikankan, on the German Admiralty Chart of 1889–90, meet. From this point the line strikes direct to the left river bank of the Old Calabar or Cross River, and terminates, after crossing that River, at the point marked “Rapids” on the English Admiralty chart. From that point it follows a straight line directed towards the centre of the town of Yola as it existed in 1893, and, on reaching a point on that line near Ashaku, runs west to Idda on the Niger, leaving Takum to the north. From Idda, which is included in Southern Nigeria, the line runs west to Owo, leaving to the south the Benin territories, then south-west to Akure, which is in the Lagos Protectorate, and then southward past Ikaha, which, with its dependencies, belongs to Southern Nigeria, leaving on the west the Idanre territories and farms, and on the east the Ado or Benin territories and farms. From Ikaha the line runs south along an unnamed creek past Ikotobo and Ajatito until it joins the Lagos creek at Arogbo. It then follows the Lagos creek as far as its junction with the Addabrassa creek, from which point it proceeds in a south-westerly direction to Ogbo on the coast, leaving to the west any territory subject to the King of Mahin.

The territories so bounded shall be known as Southern Nigeria.

III. In this Order, unless the subject or context otherwise requires,—

“Her Majesty” includes Her Majesty’s heirs and successors.

“Secretary of State” means one of Her Majesty’s Principal Secretaries of State.

“Treaty” includes any existing or future Treaty, Convention, Agreement, or Arrangement, made by or on behalf of Her Majesty with any civilised Power, or with any native tribe, people, Chief, or King, and any Regulation appended to any such Treaty, Convention, Agreement, or Arrangement.

“Gazette” means any official Gazette published by authority of the High Commissioner, and until such Gazette is instituted, means the London Gazette.

IV. Her Majesty may appoint a High Commissioner for Southern Nigeria, and such High Commissioner may on Her Majesty’s behalf exercise all powers and jurisdiction which Her Majesty, at any time before or after the date of this Order, had or may have within Southern Nigeria, and to that end may take or cause to be taken all such measures, and may do or cause to be done all such matters and things therein as are lawful, and as in the interest of Her Majesty’s service he may think expedient, subject to such instructions as he may from time to time receive from Her Majesty or through a Secretary of State.

V. Subject to the approval of a Secretary of State, the High Commissioner may appoint so many fit persons as, in the interest of Her Majesty’s service, he may think necessary to be Deputy

Commissioners, Residents, Assistant Residents, Judges, Magistrates, or other officers, and may define from time to time the districts within which such officers shall respectively discharge their functions.

Every such officer may exercise such powers and authorities as the High Commissioner may, with the like approval, assign to him, subject nevertheless to such directions and instructions as the High Commissioner may from time to time think fit to give him. The appointment of such officers shall not abridge, alter, or affect the right of the High Commissioner to execute and discharge all the powers and authorities hereby conferred upon him.

The High Commissioner may, subject to confirmation by a Secretary of State, remove any officer so appointed.

VI. In the exercise of the powers and authorities hereby conferred upon him, the High Commissioner may, amongst other things, from time to time by Proclamation provide for the administration of justice, the raising of revenue, and generally for the peace, order, and good government of Southern Nigeria and of all persons therein, including the prohibition and punishment of acts tending to disturb the public peace.

The High Commissioner in issuing such Proclamations shall respect any native laws by which the civil relations of any Native Chiefs, tribes, or populations under Her Majesty's protection are now regulated, except so far as the same may be incompatible with the due exercise of Her Majesty's power and jurisdiction, or clearly injurious to the welfare of the said natives.

VII. Every Proclamation of the High Commissioner shall be published in the Gazette, and shall, from and after a date to be mentioned in such Proclamation, and thereafter until disallowed by Her Majesty or repealed or modified by any subsequent Proclamation, have effect as if contained in this Order, and the High Commissioner shall take such measures as he thinks proper for giving due publicity thereto within Southern Nigeria.

VIII. Her Majesty may disallow any such Proclamation wholly or in part, and may signify such disallowance by Order in Council or through a Secretary of State, and upon such disallowance being publicly notified in the Gazette, the provisions so disallowed shall, from and after a date to be mentioned in such notification, cease to have effect, but without prejudice to anything theretofore lawfully done thereunder. Due notification shall be publicly made by the High Commissioner within Southern Nigeria of the disallowance of any such Proclamation.

IX. There shall be a Public Seal of and for Southern Nigeria, which the High Commissioner shall keep and use for sealing all things whatsoever that shall pass the said seal; provided that until a Public Seal shall be provided, the seal of the Niger Coast Protectorate may be used as the Public Seal of Southern Nigeria.

X. The High Commissioner may, upon sufficient cause to him

appearing, suspend from the exercise of his office any person holding or exercising any office within Southern Nigeria, whether appointed by the High Commissioner or under or by virtue of any Commission or Warrant granted, or which may be granted, by Her Majesty in Her Majesty's name or under Her Majesty's authority, which suspension shall continue and have effect only until Her Majesty's pleasure therein shall be signified to the High Commissioner by a Secretary of State. The High Commissioner, in proceeding to any such suspension, shall observe the directions in that behalf given to him by any instructions from Her Majesty or signified through a Secretary of State.

XI. The High Commissioner may, as he shall see occasion, when any crime has been committed within Southern Nigeria, or for which the offender may be tried therein, grant a pardon in Her Majesty's name to any accomplice, not being the actual perpetrator of such crime, who shall give such information and evidence as shall lead to the apprehension and conviction of the principal offender; and further, may grant to any offender convicted of any crime in any court, or before any judge, justice, magistrate, or other officer within Southern Nigeria, a pardon, either free or subject to lawful conditions, or any respite of the execution of the sentence of any such offender, for such period as to the High Commissioner may seem fit, and may remit any fines, penalties, or forfeitures which may become due and payable.

XII. Subject to the provisions of this Order or of any Proclamation made under this Order, all Statutes, Orders in Council, Rules, Regulations, or Treaties, together with any Jurisdiction exercisable thereunder, whether exercisable by Her Majesty or by any person on her behalf, or by any Court within Southern Nigeria, or under any Commission or under any Charter granted by Her Majesty, which at the commencement of this Order are in force within the limits of this Order, or any part of such limits, shall remain in full force, and every suit, action, complaint, matter or thing, civil or criminal, which shall be depending in any Court within Southern Nigeria at the commencement of this Order shall and may be proceeded with in such Court in like manner as if this Order had not been passed.

XIII. In the event of the death, incapacity, absence, or removal of the High Commissioner from Southern Nigeria, all and every the powers and authorities herein granted to him shall, until Her Majesty's further pleasure is signified therein, be vested in such person or persons as may be appointed by Her Majesty; and in case there shall be no person or persons so appointed by Her Majesty, then in the Senior Divisional Commissioner for the time being within Southern Nigeria.

XIV. From and after the coming into operation of this Order the provisions of the Africa Order in Council, 1889,* shall cease to apply to Southern Nigeria, without prejudice to anything lawfully done thereunder.

* Printed at pp. 1–35 above.

XV. This Order shall be published in the Gazette,* and shall come into operation on the First day of January, 1900; and the High Commissioner shall give directions for the publication of this Order at such places, and in such manner, and for such time or times as he thinks proper for giving due publicity thereto within Southern Nigeria.

XVI. Her Majesty may from time to time revoke, alter, add to, or amend this Order.

And the Right Honourable Joseph Chamberlain, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly

A. W. FitzRoy.

ORDER IN COUNCIL APPLYING THE COLONIAL PRISONERS REMOVAL ACT, 1884,† TO THE PROTECTORATE OF SOUTHERN NIGERIA.

1902. No. 205.

At the Court at St. James's, the 6th day of March, 1902.

PRESENT :

The King's Most Excellent Majesty.

Lord President.
Earl of Kintore.

Lord James of Hereford.
Sir Arthur Wilson.

Whereas it is provided by the Colonial Prisoners Removal Act, 1884, that it shall be lawful for His Majesty in Council from time to time to direct that the said Act shall apply, as if, subject to the conditions, exceptions, and qualifications (if any) contained in the Order, any place out of His Majesty's Dominions in which His Majesty has jurisdiction and which is named in the Order, were a British possession and part of His Majesty's dominions, and to provide for carrying into effect such application :

And whereas His Majesty has power and jurisdiction within the Protectorate of Southern Nigeria :

Now, therefore, His Majesty, in pursuance and exercise of the powers in this behalf by the said Act of Parliament or otherwise in Him vested, is pleased, by and with the advice of His Privy Council to order, and it is hereby ordered, as follows :—

1. The Colonial Prisoners Removal Act, 1884,† shall apply to and take effect within the Protectorate of Southern Nigeria, as if that Protectorate were a British possession and part of His Majesty's Dominions.
2. In order to carry out the application of the said Act to the Protectorate of Southern Nigeria, the High Commissioner, or any person or persons lawfully discharging the functions of High Commissioner may exercise all powers vested by the said Act in the Governor of a British possession.

A. W. FitzRoy.

* This Order was published in the Southern Nigeria Government Gazette- January 31, 1900.

† 47 & 48 Vict. c. 31.

THE NIGER NAVIGATION ORDER IN COUNCIL, 1903.

DATED AUGUST 10, 1903.

1903. No. 671.

THE NIGER TRANSIT ORDER IN COUNCIL, 1903.

DATED AUGUST 10, 1903.

1903. No. 672.

[These Orders are printed under the sub-title "Northern Nigeria Protectorate," at pp. 159–165 above.]

(f) Somaliland Protectorate.

THE SOMALILAND ORDER IN COUNCIL, 1899.

1899. No. 758.

At the Court at Balmoral, the 7th day of October, 1899.

PRESENT :

The Queen's Most Excellent Majesty.

His Royal Highness the Duke of Connaught and Strathearne.

Lord Balfour of Burleigh. | Sir Fleetwood Edwards.

Whereas by Treaty, grant, usage, sufferance, and other lawful means, Her Majesty the Queen has power and jurisdiction within the territories comprised within the limits of this Order :

Now, therefore, Her Majesty, by virtue, and in exercise of the powers on this behalf by "The Foreign Jurisdiction Act, 1890,"* or otherwise, in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

Part I.—Preliminary.

1. This Order may be cited as "The Somaliland Order in Council, 1899."

The limits of this Order are the territories comprised in the Somaliland Protectorate, which includes the territories bounded on the north by the Gulf of Aden, on the east and south by the territories under the Protectorate of Italy, and on the west by the territories of the Emperor of Ethiopia, and the French Protectorate of Jibuti.

If Her Majesty is pleased to direct that any other territories, for the time being under the protection of Her Majesty, shall form part of the Somaliland Protectorate, those territories shall, from and after a date fixed by an order of the Secretary of State be deemed to be within the limits of this Order.

* 53 & 54 Vict. c. 37.

2. This Order is divided into Parts as follows :—

Part I. Preliminary.

Part II. Application and effect of Order.

Part III. Application of law of British India and of the United Kingdom.

Part IV. Criminal matters.

Part V. Civil matters.

Part VI. Miscellaneous.

3 In this Order—

- (i.) "The Protectorate" means the territories for the time being comprised in Her Majesty's Somaliland Protectorate ;
- (ii.) "The Secretary of State" means one of Her Majesty's Principal Secretaries of State ;
- (iii.) "The Consul-General" means Her Majesty's Consul-General for the territories comprised within the limits of this Order, including a person acting temporarily, with the approval of the Secretary of State, as or for the Consul-General ;
- (iv.) "British subject" includes a British protected person. that is to say, a person who either (a) is a native of any Protectorate of Her Majesty beyond Africa and Arabia, and is for the time being in the Somaliland Protectorate, or (b) by virtue of "The Foreign Jurisdiction Act, 1890," or otherwise enjoys Her Majesty's protection in the Protectorate ;
- (v.) "Resident" means having a fixed place of abode in the Protectorate ;
- (vi.) "Native" means any person who is not a British subject as hereinbefore defined, or of European or American race or parentage ;
- (vii.) "Foreigner" means a subject or citizen of a State in amity with Her Majesty, not being a native, as hereinbefore defined ;
- (viii.) "Protectorate Court" means the Court held by the Consul-General, or other Court exercising the principal civil and criminal jurisdiction in the Protectorate ;
- (ix.) "The Court" means the Protectorate Court and any Court subordinate thereto, as the case may be ;
- (x.) "Treaty" includes any Convention, Agreement, or Arrangement with any State or Government, King, Chief, people, or tribe, made by or on behalf of Her Majesty, or to the benefits of which Her Majesty has succeeded ;
- (xi.) "Administration" means (unless a contrary intention appears from the context) letters of administration, including the same with will annexed, or granted for special or limited purposes, or limited in duration ;
- (xii.) "Ship" includes any vessel used in navigation, however propelled, with her tackle, furniture, and apparel, and any boat or other craft ;

- (xiii.) "Offence" means any act or omission made punishable by any law for the time being in force ;
- (xiv.) "Imprisonment" means imprisonment of either description, as defined in the Indian Penal Code ;
- (xv.) "Month" means calendar month ;
- (xvi.) "Will" means will, codicil, or other testamentary instrument ;
- (xvii.) "Person" includes Corporation.
- (xviii.) Words importing the plural or the singular may be construed as referring to one person or thing, or to more than one person or thing, and words importing the masculine as referring to females (as the case may require).

4.—(1.) Where this Order confers a power or imposes a duty, the power may be exercised and the duty shall be performed from time to time as occasion requires.

(2.) Where this Order confers a power or imposes a duty on the holder of an office, then, unless a contrary intention appears, the power may be exercised and the duty shall be performed by the holder of the office for the time being, or by a person duly appointed to act for him.

(3.) Where this Order confers a power to make Rules, Regulations, or Orders, the power shall be construed as including a power, exercisable in the like manner and subject to the like approval and conditions (if any), to rescind, revoke, amend, or vary the Rules, Regulations, or Orders.

(4.) Expressions defined in this Order shall have the same respective meanings in any Rules, Regulations, or Orders made under this Order unless other provision is made or the context otherwise requires.

Part II.—Application and Effect of Order.

5. The powers conferred by this Order shall extend to the persons and matters following in so far as by treaty, grant, usage, sufferance, or other lawful means, Her Majesty has jurisdiction in relation to such persons and matters, that is to say : (a) British subjects ; (b) foreigners ; (c) the property and all personal or proprietary rights and liabilities in the Protectorate of British subjects and foreigners, including ships with their boats, and the persons and property on board thereof, or belonging thereto ; and (d) natives, in the cases and according to the conditions specified in this Order, and not otherwise.

Provided that jurisdiction over any foreign ships under this Article shall not be exercised otherwise than according to the practice of the High Court in England in the exercise of jurisdiction over foreign ships.

6. All Her Majesty's jurisdiction exercisable in the Protectorate, for the hearing and determination of suits, or for the maintenance of order, or for the control or administration of persons or property, or in relation thereto, shall be exercised under and according to the provisions of this Order, so far as such jurisdiction relates,

to British subjects and foreigners. Jurisdiction over natives shall be exercised only in such matters and to such extent as the Court in its discretion thinks fit.

Part III.—Application of Law of British India and of the United Kingdom.

7—(a.) Subject to the other provisions of this Order, and to any Treaties for the time being in force relating to the Protectorate, Her Majesty's criminal and civil jurisdiction in the Protectorate shall, so far as circumstances admit, be exercised on the principles of, and in conformity with, the enactments for the time being applicable as hereinafter mentioned of the Governor-General of India in Council, and of the Governor of Bombay in Council, and according to the course of procedure and practice observed by, and before, the Courts in the Presidency of Bombay beyond the limits of the ordinary original jurisdiction of the High Court of Judicature at Bombay according to their respective jurisdiction and authority, and so far as such enactments, procedure, and practice are inapplicable, shall be exercised under, and in accordance with, the Common and Statute Law of England.

(b.) The enactments mentioned in the Schedule to this Order are hereby made applicable to the Protectorate as from the commencement of this Order.

(c.) Any other existing or future enactments of the Governor-General of India in Council, or of the Governor of Bombay in Council, shall also be applicable to the Protectorate, but shall not come into operation until such times as may in the case of any of such enactments respectively be fixed by the Secretary of State.

(d.) Any Act of the Governor-General of India in Council, or of the Governor of Bombay in Council, whether passed before or after the commencement of this Order, amending or substituted for any Act of either of those Legislatures which is by or under this Order made applicable to and brought into operation in the Protectorate, shall, subject to the provisions of this Article, also apply to the Protectorate.*

(e.) For the purpose of facilitating the application of any such enactments as before mentioned—

- (i.) The Court may construe any such enactment, with such alterations not affecting the substance, as may be necessary or proper to adapt the same to the matter before the Court.
- (ii.) The Secretary of State may by order direct by what authority any jurisdiction, powers, or duties incident to the operation of any such enactment, and for the exercise or performance of which no convenient provision has been otherwise made shall be exercised or performed.
- (iii.) The Secretary of State may by order modify, for the purposes of this Order, any provision of any of the said enactments, or of any amending or substituted enactment.

* See footnote to Schedule, p. 187.

- (iv.) Any order of the Secretary of State made in pursuance of this Article shall be published in the Protectorate and in India, in such manner as he directs, and shall have effect as from a date to be specified in the order.

8. The enactments described in the first Schedule to "The Foreign Jurisdiction Act, 1890," shall apply to the Protectorate as if it were a British Colony or possession, but subject to the provisions of this Order and to the exceptions, adaptations, and modifications following, that is to say :—

- (i.) The Consul-General is hereby substituted for the Governor of a Colony or British possession, and the Protectorate Court is hereby substituted for a Superior Court or Supreme Court and for a Magistrate or Justice of the Peace of a Colony or British possession.
- (ii.) For the portions of the Merchant Shipping Acts, 1854 * and 1867,† referred to in the said Schedule shall be substituted Part XIII. of "The Merchant Shipping Act, 1894."‡
- (iii.) In section 51 of "The Conveyancing (Scotland) Act, 1874,"§ and any enactment for the time being in force amending the same, the Protectorate Court is substituted for a Court of Probate in a Colony.
- (iv.) With respect to "The Fugitive Offenders Act, 1881"|| :—
 - (a.) So much of the 4th and 5th sections of the said Act as relates to sending a report of the issue of a warrant, together with the information, or a copy thereof, or to the sending of a certificate of committal and report of a case, or to the information to be given by a Magistrate to a fugitive, shall be excepted, and in lieu of such information the person acting as the Magistrate shall inform the fugitive that in the British possession or Protectorate to which he may be conveyed he has the right to apply for a writ of *habeas corpus* or other like process.
 - (b.) So much of the 6th section of the said Act as requires the expiration of fifteen days before issue of warrant, shall be excepted.
 - (c.) The Consul-General shall not be bound to return a fugitive offender to a British possession unless satisfied that the proceedings to obtain his return are taken with the consent of the Governor of that possession.
 - (d.) For the purposes of Part II. of the said Act, the Protectorate, Aden, Zanzibar, the East Africa and Uganda Protectorates, and British India shall be deemed to be one group of British possessions.

9. The Secretary of State may, by order published in such manner as he directs, declare that any of the Laws or Ordinances

* 17 & 18 Vict. c. 120.

† 30 & 31 Vict. c. 124.

‡ 57 & 58 Vict. c. 60.

§ 37 & 38 Vict. c. 94.

|| 44 & 45 Vict. c. 69.

for the time being in force in any British possession, and not inconsistent with this Order, shall have effect, and be administered in the Protectorate, with such modifications or adaptations as may be necessary; and thereupon such Laws or Ordinances as so modified or adapted shall have effect as if they had been applied by this Order.

Part IV.—Criminal Matters.

10. Subject to the other provisions of this Order, the Code of Criminal Procedure and the other enactments relating to the administration of criminal justice in India, for the time being applicable to the Protectorate, shall have effect as if the Protectorate were a Presidency of India.

For the purposes of those enactments—

- (a.) The Consul-General shall hold and form a Court to be called the Protectorate Court, which shall have all the powers of a Sessions Court in India; and
- (b.) The Protectorate Court shall in relation to all Courts within the Protectorate have the same appellate jurisdiction and the same powers of revision as are possessed by a High Court in India; and
- (c.) The powers both of the Governor-General in Council and of the Local Government under those enactments shall be exercisable by the Secretary of State, or with his previous or subsequent assent, by the Consul-General.

11. If any person smuggles or imports into or exports from the Protectorate any goods whereon any duty is charged or payable to the Government of the Protectorate, with intent to evade payment of the duty, he shall be punished with imprisonment for a term which may extend to two months, or with fine which may extend to 1000 rupees, or with both.

12. Any Act which if done in British India would be an offence against the law for the time being in force in British India relating to trade-marks, merchandise marks, copyright, designs, or inventions, shall, if done in the Protectorate, be an offence punishable with imprisonment for a term which may extend to two months, or with a fine which may extend to 1000 rupees, or with both.

13.—(1.) In cases of murder or culpable homicide, if either the death or the criminal act which wholly or partly caused the death happened in the Protectorate, a Court acting under this Order shall have the like jurisdiction over any person charged either as a principal offender or as an abettor, as if both the criminal act and death had happened in the Protectorate.

(2.) In the case of any offence committed on the high seas, or within the Admiralty jurisdiction, by any person who at the time of committing such offence was on board a British ship, or by any British subject on board a foreign ship to which he did not belong, a Court acting under this Order shall have jurisdiction as if the offence had been committed within the Protectorate.

(3.) In cases tried under this Article no different sentence can be passed from the sentence which could be passed in England if the offence were tried there.

14. When a sentence of death has been passed by the Protectorate Court the Consul-General shall consider whether it is or is not desirable that the sentence should be reconsidered by the Secretary of State.

If he considers that it is so desirable, he shall append to the Minutes a certificate under his hand to that effect, together with such observations as he may think fit, and shall, at the earliest opportunity transmit the same to the Secretary of State.

If he considers that it is not so desirable, he shall, not sooner than seven days after the passing of the sentence, certify on the Minutes his confirmation of the sentence by writing under his hand.

The Secretary of State may confirm or remit or commute the sentence.

A sentence of death shall not be carried into effect until it is confirmed by the Consul-General or the Secretary of State, as provided in this Article, but upon such confirmation shall be carried into effect according to law.

When the Secretary of State commutes a sentence, the commuted sentence shall be carried into effect as if the Protectorate Court had passed, and had authority to pass, that sentence.

15.—(a.) The Consul-General may, if he thinks fit, by general order, prescribe the manner in which, and the places in the Protectorate at which, sentences of imprisonment are to be carried into execution.

(b.) The Consul-General may, if he thinks fit, in any case, by warrant under his hand and official seal, cause an offender convicted and sentenced to imprisonment before the Court to be sent and removed to, and imprisoned in, any place either in the Protectorate or in Aden.

16. Where an offender convicted before the Court is sentenced to imprisonment, and the Consul-General, proceeding under section 7 of "The Foreign Jurisdiction Act, 1890," authority in that behalf being hereby given to him, considers it expedient that the sentence should be carried into effect within Her Majesty's dominions, the place shall be a place in some part of Her Majesty's dominions out of the United Kingdom, the Government whereof consents that offenders may be sent thither under this Article.

17.—(1.) Where it is shown by evidence on oath, to the satisfaction of the Consul-General that any person subject to this Order has committed, or is about to commit, an offence against this Order, or is otherwise conducting himself so as to be dangerous to peace and good order in the Protectorate, or is endeavouring to excite enmity between the people of the Protectorate and Her Majesty, or is intriguing against Her Majesty's power and authority in the Protectorate, the Consul-General may, if he think fit, by order under his hand and official seal, prohibit that person from

being in the Protectorate, during any time therein specified, not exceeding two years, or may order him to be deported in manner provided by this Order.

(2.) If the person named in the order of prohibition fails to obey, or acts in contravention of the order—

(i.) He shall be guilty of an offence against this Order, and on conviction thereof, shall be liable to imprisonment for any term not exceeding two years, without prejudice to the operation of the order of prohibition.

(ii.) Whether the offender has been convicted of, or imprisoned for, that offence or not, the Consul-General may, if he thinks fit, order him to be deported.

(3.) The Consul-General, by order under his hand and official seal, may vary any order of prohibition (not extending the duration thereof), and may at any time revoke the same.

(4.) The Consul-General shall forthwith report to the Secretary of State every order made by him under this Article, and the grounds thereof, and the proceedings thereunder.

18. (a.) Where a person is convicted of an offence, the Court before which he is convicted may, if it thinks fit, require him to give security to the satisfaction of the Court for his future good behaviour, and for that purpose may, if it thinks fit, cause him to come or be brought before the Court.

(b.) If any person required by an order under this Article, or under the law relating to criminal procedure for the time being in force, to give security for good behaviour or for keeping the peace, fails to do so, the Court may, if it thinks fit, order that he be deported from the Protectorate.

(c.) Any order of deportation not made by the Consul-General must be approved by him.

19.—(a.) Any person ordered to be deported under this Order shall be, as soon as practicable, and in the case of a person convicted, either after execution of the sentence, or while it is in course of execution, removed in custody, under the warrant of the Consul-General, to the place named in the warrant and there discharged from custody.

(b.) The place shall be a place in that part (if any) of Her Majesty's dominions out of the United Kingdom to which the person belongs, or in some other part of those dominions, the Government whereof consents to the reception therein of persons deported under this Order, or a place under the Protectorate of Her Majesty, or in the country out of Her Majesty's dominions to which the person belongs.

(c.) The Court, on making an order of deportation, may, if it thinks fit, order the person to be deported to pay all or any part of the expenses of his deportation, to be fixed by the Court in the order.

(d.) The Consul-General shall forthwith report to the Secretary of State every order of deportation made under this Order, and the grounds thereof, and the proceedings thereunder.

(e.) If a person deported under this Order returns to the Protectorate without permission in writing of the Consul-General

or Secretary of State, he shall be punished with imprisonment for a term which may extend to two months, or with fine which may extend to 1000 rupees, or with both.

(f.) He shall also be liable to be again deported under the original or a new order, and a fresh warrant of the Consul-General.

(g.) The Consul-General may at any time revoke or vary any order or warrant of deportation.

20.—(a.) Where, under this Order, a person is to be sent, or removed, or deported from the Protectorate, he shall, by warrant of the Consul-General under his hand and seal, be detained, if necessary, in custody, or in prison, until a fit opportunity for his removal or deportation occurs, and then, if he is to be deported beyond sea, be put on board one of Her Majesty's vessels of war, or, if none is available, then on board some other British or other fit vessel.

(b.) The warrant of the Consul-General shall be sufficient authority to the person to whom it is directed or delivered for execution, and to the Commander or master of the vessel, to receive and detain the person therein named, in the manner therein prescribed, and to send or remove and carry him to the place therein named, according to the warrant.

(c.) In case of sending or removal for any purpose other than deportation, the warrant of the Consul-General shall be issued in duplicate, and the person executing it shall, as soon as practicable after his arrival at the place therein named, deliver, according to the warrant, with one of the duplicates of the warrant, to a constable, or proper officer of police, or keeper of a prison, or other proper authority or person there, the person named in the warrant, to be produced on the order of the proper Court or authority there, or to be otherwise dealt with according to law.

21. The Consul-General, and every officer for the time being exercising the powers of a Magistrate, shall have in and for the Protectorate, province, or district, as the case may be, all the power and jurisdiction appertaining to the office of a Justice of the Peace.

22. A sentence of imprisonment under this Order, or any Regulations made under this Order, may be with or without hard labour, in the discretion of the Court, unless it is expressed to be without hard labour.

Part V.—Civil Matters.

23. Subject to the other provisions of this Order, the Code of Civil Procedure, "The Bombay Civil Courts Act, 1869," and the other enactments relating to the administration of civil justice for the time being applicable to the Protectorate, shall have effect as if the Protectorate were the Presidency of Bombay.

(a.) For the purposes of these enactments the Protectorate Court shall be deemed to be the High Court, and the Court authorised to hear appeals from and to revise the decisions of Districts Courts;

(b.) District Courts shall be established under the provisions

of "The Bombay Civil Courts Act, 1869," as applied by this Order ; and

(c.) The powers both of the Governor-General in Council and the Local Government under those enactments shall be exercisable by the Secretary of State, or with his previous or subsequent assent, by the Consul-General.

24. The following enactments of "The Colonial Courts of Admiralty Act, 1890," * that is to say, section 2, sub-sections (2) to (4), sections 5 and 6, section 16, sub-section (3), shall apply to the Protectorate Court as if in the said sections the said Court were mentioned in lieu of a Colonial Court of Admiralty, and the Protectorate were referred to in lieu of a British possession.

25.—(a.) Every District Court shall endeavour to obtain, as early as may be, notice of the death of every British subject or foreigner dying in the Protectorate leaving property to be administered, and all such information as may serve to guide the Court with respect to the securing and administration of his property.

(b.) On receiving notice of the death of such a person, the Court shall put up a Notice thereof at the Court-house, and shall keep the same there until probate or administration is granted, or, where it appears to the Court that probate or administration will not be applied for, or cannot be granted, for such time as it thinks fit.

(c.) The Court shall, where the circumstances of the case appear so to require, as soon as may be, take possession of the property in the Protectorate of the deceased, or put it under its seal (in either case, if the nature of the property or other circumstances so require, making an inventory), and so keep it until it can be dealt with according to law.

(d.) All expenses incurred by the Court in so doing shall be the first charge on the property of the deceased, and the Court shall, by sale of the property, or part thereof, or otherwise, provide for the discharge of these expenses.

26. Where a British subject or foreigner dies in the Protectorate intestate, his property shall, until administration is granted, vest in the Consul-General.

27. If a person named executor in a will, to the establishment of whose title, as such, it is necessary to obtain probate of that will, takes possession of, and administers or otherwise deals with, any part of the property of the deceased, and does not obtain probate within one month after the death, or after the termination of any proceeding respecting probate or administration, he shall be liable to be punished with fine, which may extend to 1000 rupees.

28. If any person other than the person named executor, or the administrator, or a person entitled to represent the deceased, without obtaining probate or letters of administration, or an

* 53 & 54 Vict. c. 27.

officer of the Court, takes possession of and administers, or otherwise deals with, any part of the property of the deceased, he shall, as soon as practicable, notify the fact and the circumstances to the District Court, and shall furnish to that Court all such information as the Court requires, and shall conform to any directions of the Court in relation to the custody, disposal, or transmission of the property, or the proceeds thereof, and, in case of any contravention of this article, he shall be liable to be punished with fine, which may extend to 1000 rupees.

29.—(1.) When the peculiar circumstances of the case appear so to require, for reasons recorded in its proceedings, the District Court may, if it thinks fit, of its own motion or otherwise, grant letters of administration to an officer or practitioner of the Court.

(2.) The person so appointed shall act under the direction of the Court, and shall be indemnified thereby; and, if he is a practitioner, he shall not act otherwise than as administrator in relation to the estate.

(3.) He shall publish such notices, if any, as the Court thinks fit in the Protectorate, Aden, the United Kingdom, and elsewhere.

(4.) The Court shall require and compel him to file, in the proper office of the Court, his accounts of his administration at intervals not exceeding three months.

(5.) The accounts shall be audited under the direction of the Court.

(6.) All expenses incurred in behalf of the Court in execution of this Article shall be the first charge on the estate of the deceased in the Protectorate; and the Court shall, by the sale of the estate or otherwise, provide for the discharge of those expenses.

30.—(a.) Every agreement for reference to arbitration to which a person subject to this Order is a party may, on the application of any party, be filed for execution in the proper office of the District Court.

(b.) The Court shall thereupon have authority to enforce the agreement, and the award made thereunder, and to control and regulate the proceedings before and after the award, in such manner and on such terms as the Court may think fit.

Part VI.—Miscellaneous.

31. Subject to the approval of the Secretary of State, the Protectorate Court may frame Rules of Procedure and other Rules, consistent with this Order, for the better execution of the provisions herein contained in respect of civil or criminal proceedings, and for regulating the conditions on which persons other than parties may be permitted to practise as advocates or solicitors in any Court, and for suspending or excluding (subject to a right of appeal) such persons from practice in case of misconduct: provided that any scales of remuneration fixed by such rules shall have been sanctioned by the Treasury.

32. The Consul-General may make Regulations (to be called Queen's Regulations) for the following purposes, consistent with the provisions of this Order, that is to say :—

- (i.) For the Regulation of all matters relating to Customs, Inland Revenue, post-office, land, highways, railways, money, agriculture, trade, and health.
- (ii.) For the establishment of a constabulary or other force to be employed in the maintenance of order or (either with or without the limits of this Order) in defence of the Protectorate.
- (iii.) For securing the observance of any Treaty for the time being in force relating to the Protectorate, or of any native or local law or custom ; and
- (iv.) For the registration of documents purporting or operating to create, declare, assign, limit, or extinguish any right title, or interest in or over any immovable property situate in the Protectorate.
- (v.) Generally for the peace, order, and good government of the Protectorate.

Any Regulations under this Article may provide for forfeiture of any goods, receptacles, or things in relation to which, or to the contents of which, any breach is committed of such Regulations, or of any Treaty, or any native or local law or custom, the observance of which is provided for by the Regulations.

Any Regulations under this Article with respect to the registration of documents may prescribe the period within which any documents are to be registered, and such penalties for non-registration, whether by stamp duties or otherwise, and whether, in lieu of, or in addition to, the other penalties provided by this Article ; but nothing in any such Regulations shall make any instrument inadmissible in evidence in any criminal proceeding.

Any Regulations under this Article shall, when allowed by the Secretary of State, and published by the Consul-General, have effect as if contained in this Order : Provided that in case of urgency declared by any such Regulations, the same shall take effect before such allowance, and shall continue to have effect unless and until they are disallowed by the Secretary of State, and until notification of such disallowance is received and published by the Consul-General ; and such disallowance shall be without prejudice to anything done or suffered under such Regulations in the meantime.

The Consul-General may fix such penalties for the breach of any Regulations as may seem proper, and, where no penalty is so fixed, any person guilty of such breach, shall, on conviction, be liable to a fine which may extend to 1000 rupees, or to imprisonment which may extend to two months, or both, in addition to any forfeiture as aforesaid.

33. The Consul-General may also make Queen's Regulations for the governance, visitation, care, and superintendence of prisons in the Protectorate, and for the infliction of corporal or other punishment on prisoners committing offences against the Prisons Regulations.

Any Regulations under this Article shall, when allowed by the Secretary of State, have effect, as if contained in this Order, and copies thereof shall be exhibited in every prison to which they apply in such manner as the Consul-General may direct.

Any breach of Regulations under this Article, committed by any officer of a prison, or by any other person (not being a prisoner), shall be punishable in like manner as a breach of Queen's Regulations under the last preceding Article.

34.—(a.) The Consul-General may, with the approval of the Secretary of State and concurrence of the Treasury, make rules imposing fees leviable in respect of any proceedings in, or processes issued out of, any Court established under this Order, and in respect of the registration of any instrument under this Order.

(b.) But the Court may in any case, if it thinks fit, on account of the poverty of a party, or for any other reason, dispense in whole or in part with the payment of any fee chargeable in respect of such matter.

(c.) Nothing in this Order shall affect any Order in Council prescribing a table of fees to be taken by Consular officers; and, where a fee is taken under that Order, no fees shall be taken in respect of the same matter under this Order.

35.—(a.) All fees, charges, expenses, costs, fines, damages, and other money payable under this Order, or under any law made applicable by this Order, may be enforced under order of the Court by attachment and sale of goods, and in case of deficiency by imprisonment (without hard labour) which may extend to one month.

(b.) Any bill of sale or mortgage, or transfer of property, made with the view of avoiding such attachment or sale, shall not be effectual to defeat the provisions of this Order.

(c.) All fees, penalties, fines, and forfeitures levied under this Order shall be paid to the public account, and shall be applied in such manner as the Secretary of State, with the consent of the Treasury, may direct.

36. Subject to the other provisions of this Order, all expenses of removal of prisoners and others, and the expenses of deportation and of the sending of any person to any part of Her Majesty's dominions or Protectorates, including expenses of maintenance, shall be defrayed in such manner as the Secretary of State, with the concurrence of the Treasury, directs.

37.—(a.) If an officer of any Court employed to execute an order loses, by neglect or omission, the opportunity of executing it, then, on complaint of the person aggrieved and proof of the fact alleged, the Court may, if it thinks fit, order the officer to pay the damages sustained by the person complaining, or part thereof.

(b.) The order may be enforced as an order directing payment of money.

38.—(a.) If a clerk or officer of the Court, acting under pretence of the process or authority of the Court, is charged with extortion,

or with not paying over money duly levied, or with other misconduct, the Court may, if it thinks fit, inquire into the charge in a summary way, and may for that purpose summon and enforce the attendance of all necessary persons as in an action, and may make such order for the repayment of any money extorted, or for the payment over of any money levied, and for the payment of such damages and costs as the Court thinks fit.

(b.) The Court may also, if it thinks fit, on the same inquiry, impose on the clerk or officer a fine not exceeding 50 rupees for each offence.

(c.) A clerk or officer punished under this Article shall not, without the leave of the Protectorate Court, be liable to an action in respect of the same matter; and any such action, if already or afterwards begun, may be stayed by the Court in such manner and on such terms as the Court thinks fit.

(d.) Nothing in this Article shall be deemed to prevent any person from being prosecuted under any other law for any act or omission punishable under this Article, or for being liable under that other law to any higher punishment or penalty than that provided by this Article: Provided that no person shall be punished twice for the same offence.

39. The Consul-General, or any officer of the Protectorate Government appointed by him in that behalf, may exercise any power conferred on any Justices of the Peace within Her Majesty's dominions by any Act of Parliament, for the time being in force, regulating merchant seamen or the mercantile marine.

40. If a question arises whether any place is or is not within the Protectorate for the purposes of this Order, it shall be referred to and determined by the Consul-General, and a certificate under his hand and seal shall be conclusive on the question, and judicial notice thereof shall be taken by every Court constituted by or under this Order.

41. Not later than the 31st March in each year the Consul-General shall send to the Secretary of State a Report on the operation of this Order, up to the 31st December in the previous year, showing for the then last twelve months the number and nature of the proceedings, criminal and civil, taken under this Order, and the result thereof, and the number and amount of fees received, and containing such other information, and being in such form as the Secretary of State from time to time directs.

42. This Order shall commence and have effect as follows:—

- (1.) As to the making of any warrant or appointment under this Order, immediately from and after the date of this Order.
- (2.) As to the framing of Rules of Procedure or Regulations, and the approval thereof by the Secretary of State, immediately from and after the date of this Order.
- (3.) As to all other matters and provisions comprised and contained in this Order, immediately from and after the ex-

piration of one month after this Order is first exhibited in the public Office of the Protectorate at Berbera ; for which purpose the Consul-General is hereby required forthwith, on receipt by him of a copy of this Order, to affix and exhibit the same conspicuously in his public Office, and he is also hereby required to keep the same so affixed and exhibited during one month from the first exhibition thereof ; and notice of the time of such first exhibition shall, as soon thereafter as practicable, be published in such manner as the Consul-General directs ; and notwithstanding anything in this Order, the time of the expiration of the said month shall be deemed to be the time of the commencement of this Order.

- (4.) Proof shall not in any proceeding or matter be required that the provisions of this Article have been complied with, nor shall any act or proceeding be invalidated by any failure to comply with any of such provisions.

43. A copy of this Order shall be kept exhibited conspicuously in the principal Office of the Protectorate at Berbera.

Printed copies shall be provided and sold at such reasonable price as the Consul-General directs.

And the Most Honourable the Marquess of Salisbury, K.G., one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein.

Schedule.

*Indian Acts applied.**

Acts XXXV. and XXXVI. of 1858 relating respectively to Lunatics and Lunatic Asylums.

The Indian Penal Code (Act XLV. of 1860).

"The Whipping Act, 1864" (Act VI. of 1864).

The Indian Succession Act (Act X. of 1865).

So much of "The Indian Post Office Act, 1866" (Act XIV. of 1866), as relates to offences against the Post Office.

The Indian Divorce Act (Act. IV. of 1869), except so much as relates to divorce and nullity of marriage.

"The Bombay Civil Courts Act, 1869" (Act XIV. of 1869), except sections 6, 15, 23, 31, 33, 34, 38 to 43 (both inclusive), the last clause of section 19, and the last two clauses of section 22.

"The Indian Evidence Act, 1872" (Act I. of 1872).

"The Indian Contract Act, 1872" (Act IX. of 1872).

"The Indian Oaths Act, 1873" (Act X. of 1873).

The Indian Majority Act (Act IX. of 1875).

* These Acts have (Dec. 31, 1903) been largely amended and repealed in part by Act of the Governor-General of India in Council and of the Governor of Bombay in Council.

"The Indian Limitation Act, 1877" (Act XV. of 1877).

"The Transfer of Property Act, 1882" (Act IV. of 1882).

The Code of Civil Procedure (Act XIV. of 1882).

"The Provincial Small Cause Courts Act, 1887" (Act IX. of 1887).

"The Indian Railways Act, 1890" (Act IX. of 1890).

"The Prevention of Cruelty to Animals Act, 1890" (Act XI. of 1890).

"The Land Acquisition Act, 1894" (Act of 1894).*

The Code of Criminal Procedure (Act V. of 1898), except chapter 33.

THE SOMALILAND ORDER IN COUNCIL, 1903.

1903. No. 216.

At the Court at Buckingham Palace, the 12th day of March, 1903.

PRESENT :

The King's Most Excellent Majesty in Council.

Whereas by Treaty, grant, usage, sufferance, and other lawful means, His Majesty the King has power and jurisdiction within the Somaliland Protectorate :

Now, therefore, His Majesty, by virtue and in exercise of the powers on this behalf by "The Foreign Jurisdiction Act, 1890," † or otherwise in His Majesty vested, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered as follows :—

1. This Order may be cited as "The Somaliland Order in Council, 1903," and shall be construed as one with "The Somaliland Order in Council, 1899." ‡

2. Where, under "The Merchant Shipping Act, 1894," § or any amending Act, anything is authorised to be done by, to, or before a British Consular officer, such thing may be done in any place in the Protectorate at which there is no Consular officer by, to, or before such officer of the Protectorate as the Consul-General may appoint.

3. The Consul-General may make King's Regulations providing for the registration of births and deaths in the Protectorate.

And the Most Honourable the Marquess of Lansdowne, K.G., one of His Majesty's Principal Secretaries of State, is to give the necessary directions herein.

A. W. FitzRoy.

* Act I. of 1894.

‡ Printed at p. 173 above.

† 53 & 54 Vict. c. 37.

§ 57 & 58 Vict. c. 60.

2. Brunei.

THE BRUNEI ORDER IN COUNCIL, 1901.

1901. No. 588.

At the Court at St James's, the 24th day of July, 1901.

PRESENT :

The King's Most Excellent Majesty.

Lord President.	Lord James of Hereford.
Marquess of Cholmondeley.	Lord Pauncefote.
Viscount Cromer.	Lord Milner.
Lord Chesham.	Mr. Cecil Rhodes.

Whereas, by Treaty, grant, usage, sufferance, and other lawful means, His Majesty the King has power and jurisdiction within the dominions and territories of the Sultan of Brunei :

Now, therefore, His Majesty, by virtue and in exercise of the powers in this behalf by "The Foreign Jurisdiction Act, 1890," * and otherwise in him vested, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. This Order may be cited as "The Brunei Order in Council, 1901."

2. This Order is divided into parts as follows :—

Parts.	—	Articles.
I.	General Provisions	3-6
II.	Courts	7-14
III.	Criminal Matters	15-44
IV.	Civil Matters	45-80
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VI.	Foreigners	84-85
VII.	Deportation and Removal	86-87
VIII.	Regulations, Commencement, &c.	88-94

PART I.—GENERAL PROVISIONS.

3. In this Order, unless the subject or context otherwise requires—

"The Secretary of State" means one of His Majesty's Principal Secretaries of State ;

"Prescribed" means prescribed by any Consular instructions, or by any order of notification signed or authorised by the Secretary of State ;

The expression "Brunei" or "the limits of this Order," mean the dominions for the time being of the Sultan of Brunei and the islands and territorial waters belonging to the said dominions : provided that the expression "at Brunei" shall be construed as referring to the town or settlement called Brunei.

* 53 & 54 Vict. c. 37.

- “Consular officer” includes any person for the time being acting in Brunei by virtue of His Majesty’s Commission, or with the authority or approval of the Secretary of State as Consul-General, Consul, Vice-Consul, or Consular Agent ;
 - “Consul” means any person for the time being acting as Consul for Brunei ;
 - “Treaty” includes any Convention, Agreement, or Arrangement made by or on behalf of His Majesty with any State or Government, King, Chief, people, or tribe, and any Regulation appended thereto ;
 - “Court” means any Court or person exercising jurisdiction under this Order ;
 - “Governor” means the Governor of the Straits Settlements ;
 - “Supreme Court” means the Supreme Court of the Straits Settlements ;
 - “British subject” includes a British-protected person, that is to say, a person who either (a) is a native of any Protectorate of His Majesty, and is temporarily in Brunei, or (b) by virtue of “The Foreign Jurisdiction Act, 1890,” or otherwise enjoys His Majesty’s protection in Brunei ;
 - “Foreigner” means a person, whether a native or subject of Brunei or not, who is not a British subject, as above defined ;
 - “Native” means a native or subject of Brunei ;
 - “Person” includes a corporation or association of persons ;
 - “Oath” or “Affidavit” includes affirmation and declaration ;
 - “Month” means calendar month.
- The plural includes the singular, and the singular the plural, and the masculine the feminine.
- Expressions referring to print or to writing include either print or writing, or a combination of both.

4.—(1.) The powers conferred by this Order shall extend to the persons and matters following, in so far as by Treaty, grant, usage, sufferance, or other lawful means His Majesty has power or authority in Brunei in relation to such persons and matters, that is to say :—

- (a.) British subjects as herein defined.
- (b.) The property and personal and proprietary rights and obligations of British subjects in Brunei (whether such subjects are or are not within Brunei), including British ships, with their boats and the persons and property on board thereof, or belonging thereto.
- (c.) Foreigners as herein defined who submit themselves to the Court in accordance with the provisions of this Order.
- (d.) Foreigners as herein defined with respect to whom any State, King, Chief, or Government whose subjects or under whose protection they are has by any Treaty as herein defined or otherwise agreed with His Majesty for or consented to the exercise of power or authority by His Majesty.

(2.) All His Majesty's jurisdiction exercisable in Brunei for the judicial hearing and determination of matters in difference between British subjects, or between foreigners and British subjects, or for the administration or control of the property or persons of British subjects, or for the repression or punishment of crimes committed by British subjects, or for the maintenance of order among British subjects, shall be exercised under and according to the provisions of this Order and not otherwise.

5. Subject to the other provisions of this Order the criminal and civil jurisdiction of the Court shall, as far as circumstances admit, be exercised on the principles of and in conformity with the Statute Law and other law for the time being in force in England, and with the procedure and practice of Courts of Justice and Justices of the Peace in England, according to their respective jurisdiction and authority.

For the purpose of facilitating the application of such Statute Law, the Court may construe any enactment with such alterations and modifications not affecting the substance as may be necessary to meet the circumstances of the said territories.

Except as regards acts which are or may be made offences by this or any other Order in Council applying to Brunei, or by any Laws or Regulations made thereunder, such acts only as would be offences if committed in England shall be deemed to be offences rendering the person committing the same liable to punishment.

6. Crimes, wrongs, and breaches of contract against or affecting the person, property, or rights of natives of Brunei or other foreigners as herein defined, committed by persons subject to this Order, are punishable or otherwise cognisable under the provisions of this Order, with the consent of such natives or foreigners, in the same manner as if they were committed against or affected the person, property, or rights of British subjects.

PART II.—COURTS.

(1.) *Court for Brunei.*

7. There shall be and there is hereby established in and for Brunei a Court styled "His Majesty's Court for Brunei," in this Order referred to as "the Court."

The Court shall be held by the Consul or a Consular officer, who in relation to the Court is hereinafter referred to as "the Judge."

The Court shall sit at Brunei, or, as occasion may require, at any other place within the limits of this Order.

The Court shall be a Court of Record.

8. The Secretary of State may appoint a fit person to be Registrar of the Court, but where no other person is appointed to be Registrar the Consul or Consular officer holding the Court shall be the Registrar of the Court.

The Consul may, with the approval of the Secretary of State,

appoint such clerks, messengers, or other officers of the Court as may seem fit.

The Registrar and any Clerk of the Court designated by the Consul may administer oaths and take affidavits, declarations, and affirmations.

9. In every case, civil or criminal, heard in the Court, proper Minutes of the proceedings shall be drawn up, and shall be signed by the Judge or officer before whom the proceedings are taken, and sealed with the seal of the Court, and shall, where Assessors are present, be open for their inspection, and for their signature if concurred in by them.

The Minutes, with depositions of witnesses and notes of evidence taken at the trial by the Judge or officer, shall be preserved in the public office of the Court.

10. The Consul shall have all the powers and authorities of the Sheriff of a county in England, with all the privileges and immunities of the office, and as such Sheriff shall be charged with the execution of all decrees, orders, and sentences made and passed by a Court, on the requisition in that behalf of the Court, he shall not be liable to any action or proceeding for anything done, or purporting to be done, or anything omitted by him as such Sheriff.

11. Where the Court thinks fit to hear and determine any case, civil or criminal, with Assessors, the Court shall nominate and summon as Assessors not less than two and not more than four indifferent British subjects of good repute resident in Brunei or belonging to a British ship; but where the Court is able to obtain the presence of one fit person only as Assessor, the Court may sit with him alone as Assessor.

An Assessor shall not have voice or vote in the decision of the Court in any case, civil or criminal; but an Assessor dissenting in a civil case from any decision of the Court, or in a criminal case from any conviction, or the amount of punishment awarded, may record in the Minutes of Proceedings his dissent and the grounds thereof; and an Assessor dissenting shall be entitled to receive gratis a certified copy of the Minutes.

If any person summoned to act as Assessor fails, without lawful excuse, to attend at the trial, or at any adjournment thereof, or to continue to serve throughout the trial, he shall be liable under a summary order of the Court to a fine not exceeding 50 dollars, to be levied by attachment and sale of his goods, and in default of recovery thereby of the fine, to be imprisoned for any time not exceeding six days, if the fine is not sooner paid.

12. No proceeding under this Order shall be invalidated by any informality, mistake, or omission, so long as, in the opinion of the Court, the essential requisites of law and justice have been complied with, or may be met by amendment.

(2.) *Supreme Court.*

13.—(1.) The Supreme Court shall have appellate jurisdiction under this Order.

The appellate jurisdiction of the Supreme Court shall be exercised

by the full Supreme Court sitting in the Straits Settlements in such manner and according to such procedure as, subject to the provisions of this Order, and of any Rules made under this Order, the Supreme Court from time to time determines.

Judgments or orders of the Supreme Court, in the exercise of its appellate jurisdiction, shall be certified by the Supreme Court to the Court for Brunei, and (subject to any appeal to His Majesty in Council) that Court may and shall execute, and give effect to the same in like manner as to its own judgments or orders.

(2.) The Supreme Court, on Petition presented to it in accordance with any Rules to be made under this Order, or in such manner as the Supreme Court directs, and alleging that any order of the Court has the effect of a refusal of justice to any suitor or complainant, may, after such inquiry (if any), as it thinks fit to direct, issue an order directing the Court to take cognisance of the matter, and may, if satisfied that such order has not been properly complied with, entertain and determine the matter of the suit or complaint, and shall certify its determination to the Court, which shall give effect thereto.

(3.) Except as provided by this Order, the Supreme Court shall not exercise any control over the Court, whether by way of mandamus, prohibition, *certiorari*, writ of *habeas corpus*, or otherwise.

14. The Supreme Court shall, for the purposes of this Order, have original jurisdiction as follows :—

- (1.) When, under this Order, a person accused of crime is sent for trial to the Straits Settlements, the Supreme Court shall have the like jurisdiction, and may proceed in the same manner as if the crime had been committed in the Straits Settlements, except that the criminality of the act charged and the punishment to be inflicted must be determined according to the law applicable under this Order in Brunei.
- (2.) The Supreme Court may exercise in Brunei, in relation to any civil or criminal matter, any original jurisdiction which can be exercised by the Court, and all the provisions of this Order shall apply accordingly (*mutatis mutandis*), and any appeal shall be to the full Supreme Court.
- (3.) The Supreme Court may hear and determine at any place within the limits of this Order any criminal case which could under this Order be sent for trial to the Straits Settlements, and for that purpose shall have the like jurisdiction and may proceed in the same manner, as nearly as may be, as if it were trying the same case in the Straits Settlements, or as if it were the Court trying in Brunei a criminal case within the jurisdiction of the Court.

Provided that the Powers conferred by sub-Articles (2) and (3) of this Article shall, except in the case of the death, absence, or incapacity of the Consular officer, be exercised only on his request.

- (4.) The Supreme Court may hear and determine within the Straits Settlements any civil case arising in Brunei, with the consent of the parties and of the Consul, and for that purpose may adopt any procedure proper either in the Straits Settlements or in Brunei. In such case, any appeal shall be to the full Supreme Court.
- (5.) For the purposes of the exercise of original jurisdiction under this Article, such Judge or Judges of the Supreme Court as the Chief Justice of the Straits Settlements from time to time nominates shall exercise the powers of the Supreme Court.
- (6.) The Court for Brunei may and shall, according to its powers, execute, enforce, and give effect to any Judgment or order of the Supreme Court in the exercise of its original jurisdiction, and may and shall, for the purposes of anything to be done preliminary to a sitting of the Supreme Court (as, for instance, the summoning of Assessors or of witnesses), exercise (*mutatis mutandis*) all the powers which the Court has for any purpose under this Order in a case or matter pending before itself.

PART III.—CRIMINAL MATTERS.

15.—(1.) A criminal prosecution is commenced by a complaint made to the Court, or by the issue of a summons or warrant by the Court of its own motion.

(2.) For the issue of a summons the complaint need not be on oath, unless the Court so requires.

(3.) A warrant may be issued if the complaint is in writing and on oath, or if the accused person does not appear on a summons, and it is proved that the summons has been served or cannot be served.

(4.) On receiving a complaint, whether on oath or not, the Court may, if it is of opinion that the complaint discloses no offence, or is otherwise unsubstantial, decline to issue any summons or warrant.

(5.) An accused person arrested on warrant shall be brought before the Court within forty-eight hours after arrest unless exceptional circumstances prevent his being so brought, and the complaint shall be heard as soon thereafter as circumstances reasonably admit. Due notice of the time and place of hearing shall be given to the prosecutor (if any), and summonses issued to the witnesses, if any.

16.—(1.) When the accused is before the Court, and the prosecutor has had notice of the time and place appointed for the hearing of the complaint, but does not appear, the Court, unless it thinks fit to adjourn the hearing, shall dismiss the complaint ;

(2.) If both parties are present the Court shall proceed to hear the complaint ; and

- (a.) If the offence is legally punishable, or if the Court thinks it would be adequately punished with imprisonment not exceeding three months, or with fine not exceeding 50 dollars, the case shall be tried summarily on the complaint ;
 - (b.) Otherwise, the Court shall take the depositions of the prosecutor and witnesses with a view to determining whether the accused shall be tried on a charge, and, if so, whether the case shall be tried before the Court or sent to the Supreme Court.
- (3.) The following offences are not triable summarily, that is to say, treason, murder, rape, arson, housebreaking, robbery with violence, forgery, and perjury.

17. At a summary trial the substance of the complaint shall be stated to the accused, and he shall be asked if he admits or denies the truth of the complaint. If he admits, the Court may convict him and award punishment, but may first take further evidence if it thinks fit. If he denies, the Court shall hear the evidence of the prosecutor and witnesses, and of the witnesses, if any, for the accused, and either discharge the accused or convict him and award punishment.

18.—(1.) At the preliminary examination of a case which must be or may, in the opinion of the Court, require to be sent for trial to the Supreme Court, the procedure shall be as follows :—

- (a.) The Court shall, in the presence of the accused, take the depositions on oath of those who know the facts and put them in writing ;
- (b.) The accused may cross-examine each witness for the prosecution, and the witness' answers shall form part of his deposition ;
- (c.) The deposition of each witness shall be read over to the witness and signed by him ;
- (d.) After the evidence of the witnesses for the prosecution has been taken, the Court shall ask the accused if he wishes to make any statement or has any witnesses to call or other evidence to adduce in his defence, and the Court shall then take his statement and the evidence of his witnesses (if any) ;
- (e.) The accused shall be informed that any statement he may make may be used against him at the trial, and also that he may be sworn as a witness himself ;
- (f.) The Court having heard all the evidence, shall consider the whole matter, and if it thinks that a *prima facie* case is made out against the accused, shall cause a charge, on which the accused is to be put on his trial, to be framed, and read over to the accused ;
- (g.) The Court shall bind by recognisance the prosecutor and every witness to appear at the trial and give evidence ;
- (h.) If the person refuses to enter into a recognisance, the Court may send him to prison, there to remain till the trial, unless in the meantime he enters into a recognisance ;

- (i.) Until the trial the Court shall either admit the accused to bail or send him to prison for safe keeping ;
 - (j.) The accused shall be entitled to a copy of the charge on which he is to be tried ;
 - (k.) The complaint (if any), the depositions, the statement of the accused (if any), the charge on which the Court orders him to be tried, and the recognisances shall be carefully transmitted to the Supreme Court.
- (2.) At the preliminary examination of a case which may be tried on a charge before the Court, the procedure above described may be varied as follows :—

After hearing so much evidence as is, in the opinion of the Court, sufficient to raise a strong presumption against the accused and to enable the Court to frame a charge, the Court may proceed to frame a charge and appoint a day for the trial.

19.—(1.) The charge upon which an accused person is tried shall state the offence, with such particulars as to the time and place of the alleged offence, and the person (if any) against whom or the thing (if any) in respect of which it was committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged.

(2.) There shall be a separate charge for each offence, and every charge shall be tried separately, but if the acts form one transaction, or if the offences are of the same kind, the charges may be tried together, if the Court thinks fit.

(3.) When more persons than one are accused of the same offence, or of different offences committed in the same transaction, or where one is accused of committing an offence and another with abetting or attempting to commit that offence, they may be charged and tried together or separately, as the Court thinks fit.

(4.) The Court may alter any charge at any time, but if the alteration is likely to prejudice the accused or the prosecutor, the Court may adjourn the trial for such time as may be necessary.

(5.) No error or omission in stating the offence or the particulars shall be regarded as material unless the accused was misled by the error or omission.

(6.) When a person is charged with an offence, and the evidence proves either the commission of a minor offence or an attempt to commit the offence charged, he may be convicted of the minor offence or the attempt.

(7.) For the purpose of the application of any Statute law, a charge framed under the provisions of this Order shall be deemed to be an indictment.

20.—(1.) The Court may, at any stage of the prosecution, in its discretion admit to bail a person charged with any felony (except murder), or with riot, or assault.

(2.) In all other cases the Court shall admit the accused to bail unless the Court sees good reason to the contrary.

(3.) Where an accused person is in custody he shall not be remanded at any time for more than seven days, unless circum-

stances appear to the Court to make it necessary or proper that he should be remanded for a longer time, which circumstances, and the time of remand, shall be recorded in the Minutes.

(4.) In no case shall a remand be for more than fourteen days at one time, unless in case of illness of the accused person or other case of a necessity.

21. The Court may from time to time postpone or adjourn any trial if it considers it necessary to do so in the interests of justice.

During the postponement or adjournment the accused may be committed to prison for safe custody, or admitted to bail, or suffered to go at large, as the Court thinks fit.

22. Where there is reasonable cause to suspect that anything, by or in respect of which any offence cognisable by the Court has been committed, is in any house or place within the jurisdiction of the Court, the Court may, by a search warrant, authorise an officer of the Court to search the house or place, and if anything searched for be found, to seize it and bring it before the Court for adjudication.

23. A warrant for apprehension or a search warrant may be issued and executed on Sunday, Good Friday, or Christmas Day, where the urgency of the matter so requires.

24. The Court may award any such punishment as may be awarded by any Court of criminal jurisdiction in England for the time being.

25. The Court may, if it thinks fit, order a person convicted of an assault to pay to the person assaulted, by way of damages, any sum not exceeding 50 dollars.

Damages ordered to be paid may be either in addition to, or in lieu of, a fine, and shall be recoverable in like manner as a fine.

Where such damages are ordered, an action cannot be brought for the assault.

26. When a person is sentenced to death, the Court shall transmit the Judge's notes and a report on the case to the Governor in Council, and the sentence shall not be carried into effect unless confirmed by the Governor in Council.

The Governor in Council may commute the sentence to such punishment as he thinks proper in the circumstances or may pardon the convict.

27. The Court may order a person convicted before it to pay all or a part of the expenses of the prosecution, the amount to be specified in the order.

The Court may, when it thinks a prosecution is vexatious or frivolous, order the complainant to pay all or a part of the expenses of the prosecution and of the accused, the amount being specified in the order.

In both cases the Court may order that the whole, or such portion as the Court thinks fit, of the expenses so paid be paid over to the complainant or the accused, as the case may be.

28.—(1.) In each of the following cases, namely :—

- (i.) Where a person is convicted before the Court, and the person so convicted declares his desire to appeal to the Supreme Court on any question or questions of law raised by the person convicted or by the Court ; or
- (ii.) Where the Court thinks fit to reserve for the judgment of the Supreme Court any question of law arising on the trial—

the Court shall frame a statement setting out the facts, the grounds of the conviction and sentence, the question or questions of law, and any objection alleged by the person convicted.

(2.) The Court shall annex to that statement certified copies of the summons, indictment (if any), and proceedings, and of all documentary evidence admitted or tendered, and appearing to that Court to be material, and the depositions, the notes of the oral testimony, any statement or objections to the conviction or sentence made by the person convicted, and any argument thereon that he desires to submit to the Supreme Court, and a note of the reasons why any tendered evidence which is not transmitted appears to the Court to be immaterial.

(3.) The Court shall forthwith send the statement and its annexes to the Supreme Court.

(4.) The Court shall postpone the execution of the sentence pending the appeal, and shall, as on a remand, either (if necessary) commit the person convicted to prison for safe custody, or admit him to bail, with or without security, by recognisance, deposit money, or otherwise.

(5.) The Supreme Court shall hear and finally determine the matter, after considering the statement of the Court, and hearing publicly any argument offered on behalf of the prosecution, or of the person convicted.

(6.) The Supreme Court may require the Court to make any amendment in or addition to its statement or the annexes thereto.

(7.) The Judgment of the Supreme Court shall be delivered publicly.

(8.) The Supreme Court shall either affirm or annul the conviction, or amend it, and shall either affirm or annul the sentence or vary it, and shall give all necessary and proper consequential directions.

29. The Supreme Court shall not annul a conviction or sentence, or vary a sentence, on the ground—

- (i.) Of any objection which, if stated during the trial, might, in the opinion of the Supreme Court, have been properly met by amendment by the Court ; or
- (ii.) Of any error or informality which, in the opinion of the Supreme Court, did not affect the substance of the case or subject the appellant to any undue prejudice.

30. There shall be no appeal in a criminal case to His Majesty the King in Council from a decision of the Supreme Court, except by special leave of His Majesty in Council.

31. The Consul may by general order prescribe the manner in which and the prisons in which punishments are to be carried into execution.

32.—(1.) When an offender is sentenced to imprisonment and the Court thinks it expedient that the sentence be carried into effect within His Majesty's dominions, the place shall be either the Straits Settlements or a place in some other part of His Majesty's dominions the Government whereof consents that offenders may be sent thither under this Article.

(2.) The Court may, by warrant under the hand of the Judge, cause the offender to be sent to such place as aforesaid, in order that the sentence may be carried into effect accordingly.

(3.) The warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person named therein, and to carry him and deliver him up at the place named, according to the warrant.

33. "The Fugitive Offenders Act, 1881," * and "The Colonial Prisoners Removal Act, 1884," † shall apply to Brunei as if it were part of His Majesty's dominions, subject as follows :—

- (a.) The Consul is hereby substituted for the Governor or Government of a British possession ;
- (b.) The Court is hereby substituted for a Superior Court, and for a Magistrate of a British possession ;
- (c.) For the purposes of the said Act of 1881, and of this Article in relation thereto, the said territories and the Straits Settlements shall be deemed to be one group of British possessions.

34.—(1.) In cases of murder or manslaughter if either the death, or the criminal act which wholly or partly caused the death, happened within Brunei, the Court shall have the like jurisdiction over any person who is charged either as the principal offender, or as accessory before the fact to murder, or as accessory after the fact to murder or manslaughter, as if both the criminal act and the death had happened within Brunei.

(2.) In the case of any offence committed on the high seas, or within the Admiralty jurisdiction, by any person on board a British ship, or by any British subject on board a foreign ship to which he did not belong, the Court shall, subject to the provisions of this Order, have jurisdiction as if the offence had been committed within the said territories. In cases tried under this Article no different sentence can be passed from the sentence which could be passed in England if the offence were tried there.

(3.) The foregoing provisions of this Article shall be deemed to be adaptations, for the purposes of this Order and of "The

* 44 & 45 Vict. c. 69.

† 47 & 48 Vict. c. 31.

Foreign Jurisdiction Act, 1890," of the following enactments, that is to say :—

"The Admiralty Offences (Colonial) Act, 1849." *

"The Admiralty Offences (Colonial) Act, 1860." †

"The Merchant Shipping Act, 1894," ‡ section 686.

35. Where the Court issues a summons or warrant against any person on a charge of an offence committed on board of, or in relation to, any ship, other than a ship enjoying immunity from civil process, then, if it appears to the Court that the interests of public justice so require, the Court may issue a warrant or order for the detention of the ship, and may cause the ship to be detained accordingly, until the charge is heard and determined and the order of the Court thereon is fully executed, or for such shorter time as the Court thinks fit; and the Court shall have power to make all such orders as appear to it necessary or proper for carrying this provision into effect.

36. Any British subject being in Brunei may be proceeded against, tried, and punished under this Order for the crime of piracy wherever committed.

37.—(1.) If any British subject does any of the following things without His Majesty's authority, levies war, or takes any part in any operation of war against, or aids or abets any person in carrying on war, insurrection, or rebellion against the Sultan of Brunei;

Every person so offending shall be deemed guilty of an offence against this Order, and on conviction thereof shall be liable to be punished by imprisonment for any term not exceeding one year, with or without hard labour, and with or without a fine not exceeding 5000 dollars, or by a fine not exceeding 5000 dollars without imprisonment.

In addition to such punishments, every such conviction shall of itself, and without further proceedings, make the person convicted liable to deportation; and the Court may order that he be deported from Brunei to such place as the Court directs.

(2.) If any British subject, without the authority of His Majesty (proof whereof shall lie on the party accused), takes part in any operation of war in the service of the Sultan of Brunei against any persons engaged in carrying on war, insurrection, or rebellion, against the Sultan of Brunei, he shall be deemed guilty of an offence against this Order, and on conviction thereof shall be liable to be punished by imprisonment for any term not exceeding one year, with or without hard labour, and with or without a fine not exceeding 5000 dollars, or by a fine not exceeding 5000 dollars without imprisonment.

38. If any British subject publicly derides, mocks, or insults any religion established or observed in Brunei, or publicly offers any insult to any religious service, feast, or ceremony established

* 12 & 13 Vict. c. 96.

† 23 & 24 Vict. c. 122.

‡ 57 & 58 Vict. c. 60.

or kept in any part of Brunei or to any place of worship, tomb or sanctuary belonging to any such religion, or to the ministers or professors thereof, or wilfully commits any act tending to bring any such religion, or its ceremonies, mode of worship, or observances into hatred, ridicule, or contempt, and thereby to provoke a breach of the public peace, he shall be deemed guilty of an offence against this Order, and shall be liable, on summary conviction, to imprisonment for any term not exceeding six months, with or without hard labour, and with or without a fine not exceeding 500 dollars, or to a fine not exceeding 500 dollars, without imprisonment.

His Majesty's Consular officers shall take such precautionary measures as seem to them proper and expedient for the prevention of such offences.

39. If any British subject violates or fails to observe any stipulation of any Treaty made with, or by, or on behalf of His Majesty for the time being in force, in respect of the violation whereof any penalty is stipulated for in the Treaty, he shall be deemed guilty of an offence against this Order, and on conviction thereof under this Order shall be liable to a penalty not exceeding the penalty stipulated for in the Treaty.

40. The Court shall have jurisdiction to make an order requiring a person to contribute, in such manner as the Court directs, to the support of his wife or child, whether legitimate or not, being in the opinion of the Court under the age of 16 years. Any such order may be made in a summary way, as if the neglect to provide for the support of such wife or child were an offence against this Order, and a failure to comply with any such order shall be deemed to be an offence against this Order, and shall be punishable accordingly, and the Court may direct any penalty imposed for such offence to be applied for the support of such wife or child in such manner as the Court thinks fit.

41. Where any act or omission is, by virtue of this Order, or of any Regulation made under this Order, an offence against this Order, and no penalty or punishment is specified in respect thereof, such offence shall be punishable with imprisonment for not exceeding three months, or fine not exceeding 500 dollars, or both.

42. The Consul shall, when required by the Secretary of State, send to the Secretary of State a report of the sentence passed in every case heard and determined by him, with a copy of the Minutes of Proceedings and notes of evidence, and may send with such report any observations he thinks fit.

43. The Court shall have all the powers appertaining to the office of Coroner in England, provided as follows :—

- (a.) Where a person is charged with causing the death, the Court may proceed forthwith with the preliminary examination ;

- (b.) Where no person is charged with causing the death, the Court shall hold an inquest, taking the depositions of those who know the facts. If, during or after the inquest, any person is so charged, the depositions shall be read over in the presence of the witnesses and of the accused, who shall be entitled to cross-examine each witness, and the procedure shall be as in other cases of preliminary examination. If after the inquest the Court does not see fit to cause any person to be charged, the Court shall send a copy of the depositions to the Supreme Court, together with a Report as to the cause of death.

44. The Governor of the Straits Settlements in Council shall have power, in the name of His Majesty, to remit or commute, in whole or in part, any sentence passed by a Court exercising criminal jurisdiction under this Order, and every such Court shall give effect to any such remission.

Nothing in this Order shall be deemed to affect His Majesty's prerogative of pardon.

PART IV.—CIVIL MATTERS.

45.—(1.) Every civil proceeding in the Court shall be taken by action, and not otherwise, and shall be designated an action.

(2.) For the purposes of any statutory enactment or other provision applicable under this Order to any civil proceeding in the Court, an action under this Order shall comprise and be equivalent to a suit, cause, or petition, or to any civil proceeding howsoever required by any such enactment or provision to be instituted or carried on.

46.—(1.) Every action shall be heard and determined in a summary way.

(2.) Every application in the course of an action may be made to the Court orally, and without previous formality, unless in any case the Court otherwise directs, or the Rules of Court otherwise provide.

(3.) No action or proceeding shall be treated by the Court as invalid on account of any technical error or mistake in form or in words.

(4.) All errors and mistakes may be corrected, and times may be extended, by the Court in its discretion, and on such terms as the Court thinks just.

47.—(1.) The sittings of the Court for the hearing of actions shall be held at such places and on such days as the Court shall appoint.

(2.) The sittings shall ordinarily be public, but the Court may, for reasons recorded in the Minutes, hear any particular case in the presence only of the parties, their advisers, and the officers of the Court.

(3.) Public notice of the sittings of the Court shall, as far as

practicable, be given at Brunei, and if the sitting is to be held at any other place, also at that place.

48. Every action shall commence by a summons, issued from the Court, on the application of the plaintiff, and served on the defendant (in this Order referred to as an original summons).

49. The Registrar shall keep a book, called the Action Book, in which all actions brought in Court shall be entered, numbered consecutively in each year in the order in which they are commenced, with a short statement of the particulars of each action, and a note of the several proceedings therein.

50.—(1.) An original summons shall not be in force for more than twelve months from the day of its date (including that day).

(2.) If any defendant named therein is not served therewith, the plaintiff may, before the end of the twelve months, apply to the Court for renewal thereof.

(3.) The Court, if satisfied that reasonable efforts have been made to serve the defendant, or for other good reason, may order that the summons be renewed for six months from the date of renewal, and so, from time to time, during the currency of the renewed summons.

(4.) The summons shall be renewed by being resealed with the seal of the Court, and a note being made thereon by the Registrar, stating the renewal and the date thereof.

(5.) A summons so renewed shall remain in force and be available to prevent the operation of any statute of limitation, and for all other purposes, as from the date of the original summons.

(6.) The production of a summons purporting to be so renewed shall be sufficient evidence of the renewal and of the commencement of the action, as of the date of the original summons, for all purposes.

51. If an action is not proceeded with and disposed of within twelve months from service of the original summons, the Court may, if it thinks fit, without application by any party, order the same to be dismissed for failure to proceed.

52. The Court may, at any time, if it thinks fit, either on or without application of a defendant, order the plaintiff to put in further particulars of his claim.

53. There shall ordinarily be no written pleadings; but the Court may at any time, if it thinks fit, order the plaintiff to put in a written statement of his claim, or a defendant to put in a written statement of his defence.

54. The evidence on either side may, subject to the direction of the Court, be wholly or partly oral, or on affidavit or by deposition.

55.—(1.) Notwithstanding anything in this Order, the Court (for reasons recorded in the Minutes) may at any time do any of the following things as the Court thinks just :—

- (i.) Defer or adjourn the hearing or determination of any action, proceeding, or application ;

- (ii.) Order or allow any amendment of any pleading or other document ;
- (iii.) Appoint or allow a time for, or enlarge or abridge the time appointed or allowed for, or allow further time for the doing of any act, or the taking of any proceeding.
- (iv.) Rehear any case and review its Judgments or orders in any case where, in the opinion of the Court, justice so requires.

(2.) Any order within the discretion of the Court may be made on such terms respecting time, costs, and other matters, as the Court thinks fit.

56. Subject to the provisions of this Order and any Rules of Court, the costs of and incident to all proceedings in the Court shall be in the discretion of the Court.

57.—(1.) All orders of the Court shall, if not made in writing, be drawn up in writing and filed with the papers in the action.

(2.) The seal of the Court shall be affixed to every order, which shall then be part of the record in the action.

(3.) The order shall bear the date of the day of the delivery of the decision on which the order is founded.

(4.) All money ordered by the Court to be paid by any person shall be paid into the office of the Court, unless the Court otherwise directs.

58.—(1.) On proof of great urgency or other peculiar circumstances, after an action is brought, the Court may, if it thinks fit, on the application of a plaintiff, or of its own motion, make an order for stopping the clearance of, or for the arrest and detention of, a ship about to leave Brunei, other than a ship enjoying immunity from civil process.

(2.) The Court may at any time, on reasonable cause shown, discharge or vary the order.

59.—(1.) Any agreement in writing between any persons to submit present or future differences to arbitration, whether an arbitrator is named therein or not, may be filed in the Court by any party thereto, and unless a contrary intention is expressed therein, shall be irrevocable, and shall have the same effect as an order of the Court.

(2.) Every such agreement is in this Order referred to as a submission.

(3.) If any action is commenced in respect of any matter covered by a submission, the Court, on the application of any party to the action, may by order stay the action.

Bankruptcy.

60.—(1.) The Court shall have, with respect to all British subjects in Brunei all such jurisdiction in bankruptcy as for the time being belongs to the High Court in England.

(2.) Proceedings in bankruptcy shall be originated by a summons to the debtor to show cause why he should not be adjudicated

bankrupt, or by a summons issued by the debtor himself to his creditor, or any of his creditors, to show cause why he, the debtor, should not be adjudicated bankrupt.

(3.) On or after the issue of such summons, the Court may stay any proceedings pending in the Court in respect of any debt provable in bankruptcy, or may allow the proceedings to continue on such terms as the Court thinks fit.

(4.) On or after the issue of such summons, the Court may appoint a receiver or manager of the property or business of the debtor.

Lunacy.

61. The Court shall, as far as circumstances admit, have, for and within the said territories, with respect to British subjects all such jurisdiction relative to the custody and management of the persons and estates of lunatics, as for the time being belongs to the Lord Chancellor or other Judge or Judges in England intrusted by virtue of His Majesty's Sign Manual with the care and commitment of the custody of the persons and estates of lunatics, or as may be exercised by a judicial authority under 'The Lunacy Act, 1890,' * or any Act amending the same.

Probate and Administration.

62. The Court shall be a Court of Probate, and, as such, shall, so far as circumstances admit, have, with respect to the property of British subjects in Brunei, all such jurisdiction as for the time being belongs to the High Court in England in cases of probate and administration of estates.

63. Probate and administration granted by the Court shall have effect over all the property of the deceased in Brunei; and shall effectually discharge persons dealing with an executor or administrator thereunder, notwithstanding that any defect afterwards appears in the grant.

64. Any person having in his possession or under his control any paper or writing of a deceased British subject, being or purporting to be testamentary, shall forthwith deliver the original to the Court.

Any person neglecting to do so for fourteen days after having knowledge of the death of the deceased shall be liable to such penalty, not exceeding 200 dollars, as the Court thinks fit to impose.

65. From the death of a British subject, in Brunei, intestate, until administration granted, his personal property in Brunei shall be vested in the Consul.

66. If any person, other than the Consul, takes possession of, or in any manner administers any part of, the personal property of any person deceased without obtaining probate or administration within three months after the death of the deceased, or within

* 53 & 54 Vict. c. 5.

one month after the determination of any suit or dispute respecting probate or administration (if there is any such which is not ended within two months after the death of the deceased), he shall be liable to such penalty, not exceeding 500 dollars, as the Court thinks fit to impose; and in every such case the same fees shall be payable by the person so administering as would have been payable by him if he had obtained probate or administration.

67. Where a British subject, not having at the time of death his fixed place of abode in Brunei, dies there, the Court shall, where the circumstances of the case appear to the Court so to require, forthwith on the death of the deceased, or as soon after as may be, take possession of his personal property within the particular jurisdiction, or put it under the seal of the Court (in either case, if the nature of the property or other circumstances so require, making an inventory), and so keep the property until it can be dealt with according to law.

68. Where it appears to the Court that the value of the property or estate of a deceased person does not exceed 500 dollars, the Court may, without any probate or letters of administration, or other formal proceedings, pay thereout any debts or charges, and pay, remit, or deliver any surplus to such persons in such manner as the Governor in Council may approve, and shall not be liable to any action, suit, or proceedings in respect of anything done, or purporting to be done, under this Article.

Appeal in Civil Cases.

69.—(1.) Where a civil action in the Court involves the amount or value of 500 dollars or upwards, any party aggrieved by any decision of the Court in the action shall have the right to appeal to the Supreme Court against the same on the following conditions, namely:—

(i.) The appellant shall give security to the satisfaction of the Court, and to such amount as the Court thinks reasonable, not exceeding 2000 dollars, for prosecution of the appeal, and for payment of any costs that may be ordered by the Supreme Court on the appeal to be paid by the appellant to any person.

(ii.) The appellant shall pay to the Court such sum as the Judge thinks reasonable, to defray the expense of the making up and transmission to the Supreme Court of the record.

(2.) In any civil case the Court may, if it thinks fit, give leave to appeal on the conditions aforesaid.

(3.) In any civil case the Supreme Court may give leave to appeal on such terms as it thinks fit.

70.—(1.) After three months from the date of the decision of the Court, an appeal against it shall not lie except by leave of the Supreme Court.

(2.) After six months from the date of the decision of the Court, application for leave to appeal against it shall not be entertained by the Supreme Court.

71.—(1.) Where a person ordered to pay money, or to do any other thing, appeals, the Court shall direct either that the decision appealed from be carried into execution, or that the execution thereof be suspended pending the appeal, as he thinks fit.

(2.) If the Court directs the decision to be carried into execution, the person in whose favour it is given shall, before the execution of it, give security to the satisfaction of the Court for performance of any order to be made on appeal.

(3.) If the Court directs the execution of the decision to be suspended, the person against whom it is given shall, before an order for suspension is made, give security to the satisfaction of the Court for performance of such order as shall be made on appeal.

72.—(1.) The appellant shall file an appeal motion-paper in the Court.

(2.) He may at the same time file any argument which he desires to submit to the Supreme Court in support of the appeal.

(3.) The motion-paper and the argument (if any) shall be served on such persons as respondents as the Court directs.

73.—(1.) A respondent may, within seven days after service, file in the Court a motion-paper of cross appeal (if any), and such argument as he desires to submit to the Supreme Court on the appeal and cross appeal (if any).

(2.) Copies thereof shall be furnished by the Court to such persons as the Court thinks fit.

74.—(1.) On the expiration of such seven days, the Court shall, without the application of any party, make up the record of appeal, which shall consist of the writ of summons, statements of claim and defence (if any), orders, and proceedings, all written and documentary evidence admitted or tendered, or a certified copy thereof, and the notes of the oral evidence, the appeal and cross appeal motion-paper, and the arguments (if any).

(2.) The several pieces shall be fastened together, consecutively numbered; and the whole shall be secured by the seal of the Judge, and be forthwith forwarded by him to the Supreme Court.

(3.) The Judge shall not, except for some special cause, take on himself the responsibility of the charge, or of the transmission to the Supreme Court, of original letters or documents produced in evidence. They shall be returned to the parties producing them; and they shall produce the originals, if required by the Supreme Court, at or before the hearing of the appeal.

75.—(1.) After the record of appeal is transmitted, until the appeal is disposed of, the Supreme Court shall be in exclusive possession of the whole action, as between the parties to the appeal.

(2.) Every application in the action, as between the parties to the appeal, shall be made to the Supreme Court, and not to the Court; but any application may be made through the Court.

76.—(1.) The Supreme Court shall, after receiving the record of appeal, fix a day for the hearing of the appeal, and shall give notice thereof through the Court to the parties to the appeal,

such a day being fixed as will allow of the parties attending in person, or by counsel or solicitor if they so desire.

(2.) But if all the separate parties to an appeal appear in person at Singapore, or appoint persons there to represent them as their counsel or solicitors in the appeal and cause the appearance or appointment to be notified to the Supreme Court, the Supreme Court may dispose of the appeal, without being required to give notice through the Court to the parties of the day fixed for the hearing thereof.

77. The Supreme Court may, if it thinks fit, require a party to an appeal to appear personally before it on the hearing of the appeal, or on any occasion pending the appeal.

78.—(1.) The Supreme Court may, from time to time, make any order necessary for determining the real question in controversy in the action, as among the parties to the appeal, and for that purpose may amend any defect or error in the record of appeal, and may enlarge the time for any proceeding except as otherwise by this Order expressly provided.

(2.) The Supreme Court may direct the Court to inquire into and certify its finding on any question, as between the parties to the appeal, or any of them, which the Supreme Court thinks fit to determine before final judgment is given in the appeal.

(3.) The powers of the Supreme Court under this Order may be exercised by the Supreme Court, notwithstanding that the appeal is brought against part only of the decision of the Court; and those powers may be exercised in favour of all or any of the parties to the action, although they have not appealed from, or complained of, the decision.

(4.) Generally, the Supreme Court shall, as among the parties to the appeal, have as full jurisdiction over the whole action as if it had been originally instituted and prosecuted in the Supreme Court by parties subject to the original jurisdiction of the Supreme Court.

(5.) The Supreme Court may, if it thinks fit, remit the action to the Court to be reheard, or to be otherwise dealt with as the Supreme Court directs.

(6.) The appeal shall be determined by the Supreme Court according to the law to be administered under this Order by the Court.

79.—(1.) Notwithstanding anything in this Order, an appeal to the Supreme Court shall not lie from an order of the Court, made on the application of one party without notice to the other party.

(2.) But, if any person thinks himself aggrieved by such an order, he may, on notice to the other party, apply to the Court to vary or discharge the Order, and an appeal shall lie from the decision on that application.

80. For purposes of appeal in civil cases to His Majesty the King in Council, a decision of the Supreme Court on appeal under

this Order shall have the effect of a decision of that Court under its ordinary primary jurisdiction.

PART V.—EVIDENCE.

81.—(1.) In any case, criminal or civil, and at any stage thereof, the Court, either of its own motion, or on the application of any party, may summon a British subject to attend to give evidence, or to produce documents, or to be examined.

(2.) If the person summoned, having reasonable notice of the time and place at which he is required to attend, fails to attend and be sworn, and give evidence, or produce documents, or submit to examination accordingly, and does not excuse his failure to the satisfaction of the Court, he shall be guilty of an offence against this Order.

(3.) A person punished under this Article shall not be liable to an action in respect of the same matter; and any such action, if begun, shall be stayed by the Court in such manner and on such terms as the Court thinks fit.

(4.) In a criminal case, where it is proved that a British subject is likely to give material evidence, either for the prosecution or for the defence, and that he will not voluntarily attend to give evidence, the Court may issue a summons for his attendance.

(5.) If he does not obey the summons, and does not excuse his failure to the satisfaction of the Court, then, after proof of service of the summons, the Court may issue a warrant to compel his attendance.

(6.) Where it is proved that he will not attend to give evidence unless compelled to do so, the Court may issue a warrant in the first instance.

(7.) In civil cases any Court may, where the circumstances appear to justify it, order that the expenses of a witness, on his appearing to give evidence, shall be defrayed by the parties, or any of them.

(8.) A person attending to give evidence before the Court shall not be compelled or allowed to give any evidence, or produce any document, if, in the opinion of the Consul signified by him personally or in writing to the Court, the giving or production thereof would be injurious to His Majesty's service.

82.—(1.) Any person appearing before the Court to give evidence in any case, civil or criminal, may be examined or give evidence on oath in the form or with the ceremony that he declares to be binding on his conscience.

(2.) Any British subject wilfully giving false evidence in any suit or proceeding, civil or criminal, or any arbitration, or in any affidavit, shall be deemed guilty of wilful and corrupt perjury.

83.—(1.) The provisions of "The Evidence Act, 1851" (14 & 15 Vict., cap. 99), sections 7 and 11, relating to the proof of judicial and other documents, shall extend and be applied for all purposes as if Brunei were a British Colony.

(2.) The following Acts, namely :—

“The Foreign Tribunals Evidence Act, 1856 ;” *

“The Evidence by Commission Act, 1859 ;” †

“The Evidence by Commission Act, 1885 ;” ‡

or so much thereof as is for the time being in force, and any enactment for the time being in force, amending or substituted for the same, are hereby extended to Brunei and the Court, with the adaptations following, namely :—

In the said Acts, the Consul is hereby substituted for a Supreme Court, or the Judge of a Court in a Colony.

(3.) The following Acts, namely :—

“The British Law Ascertainment Act, 1859 ;” §

“The Foreign Law Ascertainment Act, 1861 ;” ¶

or so much thereof as is for the time being in force, and any enactment for the time being in force, amending or substituted for the same, are hereby extended to Brunei and the Court with the adaptations following, namely :—

In the said Acts the Consul is hereby substituted for a Superior Court in a Colony.

PART VI.—FOREIGNERS.

84.—(a.) Where a foreigner desires to institute an action against a British subject, or a British subject desires to institute an action against a foreigner, the Court may hear and determine it in accordance with the provisions of this Order.

(b.) Provided that the foreigner (i) first files in the Court his consent to the jurisdiction of the Court ; and (ii) also, if required by the Court, obtains and files a certificate in writing, from a competent authority of his own Government to the effect that no objection is made by that Government to the foreigner submitting in the particular cause or matter to the jurisdiction of the Court ; and (iii) also, if required by the Court, gives security, to the satisfaction of the Court, to such reasonable amount as the Court directs by deposit money or otherwise, to pay fees, costs, damages, and expenses, and to abide by and perform the decision to be given by the Court or on appeal.

(c.) A counter-claim or cross-suit cannot be brought or instituted in the Court against a plaintiff, being a foreigner.

85. When, pursuant to the Agreement dated the 17th September 1888, between Her late Majesty Queen Victoria and the Sultan of Brunei,† a civil proceeding is brought by a native against a British subject, an officer appointed by the Government of the Sultan shall be entitled to be present at, and to take part in, the proceedings, but shall have no voice in the decision.

* 19 & 20 Vict. c. 113.

† 22 Vict. c. 20.

‡ 48 & 49 Vict. c. 74,

§ 22 & 23 Vict. c. 63.

¶ 24 & 25 Vict. c. 11.

¶ Printed in “Hertslet's State Papers,” Vol. 79, p. 240.

PART VII.—DEPORTATION AND REMOVAL.

86.—(1.) Where it is shown on oath to the satisfaction of the Court that there is reasonable ground to apprehend that any British subject in Brunei is about to commit or cause a breach of the public peace, the Court may cause him to be brought before it and require him to give security to the satisfaction of the Court to keep the peace, or for his future good behaviour, as the case may require.

(2.) Where any British subject is convicted under this Order of any crime or offence, the Court may require him to give security to the satisfaction of the Court for his future good behaviour.

(3.) In either of these cases, if the person required to give security fails to do so, the Court may order that he be deported from Brunei to such place as the Court directs.

(4.) The place shall be a place in some part of His Majesty's dominions, the Government whereof consents to the reception therein of persons deported under this Order.

(5.) The person to be deported shall be detained in custody until a fit time and opportunity for his deportation arrives.

(6.) The Consul may order that the person to be deported do pay all or any part of the expenses of, or preliminary to his deportation.

(7.) The Consul shall forthwith report to the Secretary of State any order of deportation made or confirmed by him, and the grounds thereof.

(8.) Where any person is deported to Singapore, he shall, on his arrival there, be delivered, with the warrant under which he is deported, into the custody of the Superintendent of Prisons of Singapore, who, on receipt of the person deported, with the warrant, shall detain him, and shall forthwith report the case to the Governor, who shall either, by warrant if the person is a native of the United Kingdom and if the circumstances of the case appear to make it expedient, cause the person so deported to be taken to England, and in the meantime to be detained in custody (so that the period of such detention do not exceed three months), or else shall discharge him from custody.

(9.) If any person deported returns to Brunei without the permission of the Secretary of State or of the Consul, in writing under his hand, he shall be guilty of an offence against this Order, and shall be liable, on conviction, to imprisonment for any term not exceeding one month, with or without hard labour, and with or without a fine not exceeding 200 dollars, or to a fine not exceeding 200 dollars, without imprisonment, and also to be forthwith again deported in manner hereinbefore provided.

87.—(1.) Whenever under this Order any person is to be sent, removed, or deported from Brunei, the Court shall for that purpose (if necessary) cause him to be embarked on board one of His Majesty's vessels of war, or if there is no such vessel available, then on board any British or other fit vessel.

(2.) The warrant of the Consul, or of the Supreme Court (as

the case may be), shall be sufficient authority to every constable, officer, or other person acting thereunder, and to the commander or master of any vessel of war, or other vessel (whether the constable, officer, or other person, or the vessel or the commander or master thereof, is named therein or not), to receive, detain, take, and deliver up such person, according to the warrant.

(3.) The warrant shall be delivered to the constable, officer, or other person acting thereunder, and a duplicate thereof shall be delivered to the commander or master of any vessel in which the person to whom the warrant relates is embarked.

PART VIII.—REGULATIONS, COMMENCEMENT, &C.

88.—(1.) The Consul may, subject to the provisions of this Order, make such Regulations, to be called "King's Regulations," as to him seem fit, for the peace, order, and good government of British subjects resident in, or resorting to, Brunei.

(2.) The power aforesaid, extends to the making of Regulations for securing observance of the stipulations of Treaties between His Majesty and the Sultan of Brunei, and for enforcing any local law or customs, whether relating to trade, commerce, revenue, or any other matter, and for maintaining friendly relations between British subjects and native subjects and authorities, and for requiring Returns to be made of the nature, quantity, and value of articles exported from or imported into Brunei, by or on account of any British subject or in any British ship, and for prescribing the times and manner at or in which, and the persons by whom, such returns are to be made.

(3.) Regulations made under this Order shall not have effect unless and until they are approved by the Secretary of State, save that, in case of urgency declared in any such Regulations, the same shall take effect before that approval and shall continue to have effect unless and until they are disapproved by the Secretary of State, and until notification of that disapproval has been received and published by the Consul.

89. Any Regulations made under this Order may, if the Consul thinks fit, impose penalties for offences against the same.

Penalties so imposed shall not exceed the following, namely: for any offence, imprisonment for three months, with or without hard labour, and with or without a fine of 500 dollars, or a fine of 500 dollars without imprisonment; with or without a further fine, for a continuing offence, of 50 dollars for each day during which the offence continues after conviction.

In addition to or in lieu of penalties, such Regulations may provide for forfeiture of any goods, receptacles, or things in relation to which, or to the contents of which, any breach is committed of such Regulations, of any Treaty, or any native Law or Ordinance the observance of which is provided for by such Regulations.

90. All regulations made under this Order, whether imposing penalties or not, shall be printed, and a printed copy thereof shall

be affixed, and be at all times kept exhibited conspicuously in the public office of the Consulate at Brunei.

Printed copies of the Regulations shall be kept on sale at such reasonable price as the Consul from time to time directs.

91. The respective powers aforesaid extend to the making of Regulations for the governance, visitation, care, and superintendence of prisons in Brunei, and for the infliction of corporal or other punishment on prisoners committing offences against the rules or discipline of a prison ; but the provisions of this Order respecting penalties, and respecting the printing, affixing, exhibiting, and sale of Regulations, and the mode of trial of charges of offences against Regulations, do not apply to Regulations respecting prisons and offences of prisoners.

92. The Judge may, with the approval of the Chief Justice of the Supreme Court, make Rules of Court and prescribe forms of procedure as to all civil and criminal proceedings and the fees to be taken therein.

The Supreme Court may make Rules of Court and prescribe forms of procedure as to appeals to the Supreme Court under this Order, and may fix the fees to be taken on such appeals.

All such Rules shall be transmitted forthwith to the Secretary of State for his approval, and so far as they relate to fees, for the approval of the Treasury, and until disallowance by him shall have full force and effect.

93. Not later than the 31st March in each year, the Consul shall transmit to the Secretary of State a Report on the operation of this Order so far as relates to judicial affairs for the year ending the 31st December then last, showing the number and nature of the proceedings, criminal and civil, taken in the Court, and the result thereof, and the number and amount of fees received, and such other information, and being in such form, as the Secretary of State from time to time directs.

94. This Order shall commence and take effect as follows :—

As to the appointment of any officers, the issue of any instructions, proclamations, or notifications, immediately from and after the passing of this Order ;

As to all other matters and provisions comprised and contained in this Order, from and after the expiration of one month after this Order is first publicly exhibited at Brunei.

A. W. FitzRoy.

8. China and Corea.

(a) Generally.*

THE CHINA and Japan * ORDER IN COUNCIL, 1865.

At the Court at Windsor, the 9th day of March, 1865.

PRESENT :

The Queen's Most Excellent Majesty in Council.

Whereas an Act of Parliament was passed in the session of the sixth and seventh years of Her Majesty's reign (chapter eighty) "for the better government of Her Majesty's subjects resorting to, China": †

And whereas by that Act it was enacted (among other things) that it should be lawful for Her Majesty, by any Order or Orders made with the advice of Her Privy Council, to ordain for the government of Her Majesty's subjects being within the dominions of the Emperor of China, or being within any ship or vessel at a distance of not more than one hundred miles from the coast of China, any law or ordinance which to Her Majesty in Council might seem meet, as fully and effectually as any such law or ordinance could be made by Her Majesty in Council for the government of Her Majesty's subjects being within Her Majesty's Island of Hong Kong.

And whereas another Act of Parliament was passed in the same session (chapter ninety-four) ‡ "to remove doubts as to the exercise of power and jurisdiction by Her Majesty within divers countries and places out of Her Majesty's dominions and to render the same more effectual" (to which Act the expression the Foreign Jurisdiction Act when hereafter used in this Order refers).

And whereas by the Foreign Jurisdiction Act it was enacted (among other things) that it was and should be lawful for Her Majesty to hold, exercise, and enjoy any power or jurisdiction which Her Majesty then had or might at any time thereafter have within any country or place out of Her Majesty's dominions, in the same and as ample a manner as if Her Majesty had acquired such power or jurisdiction by the cession or conquest of territory.

And whereas Her Majesty has had and now has power and jurisdiction in the dominions of the Emperor of China *and in the dominions of the Tycoon of Japan.*

And whereas Her Majesty was pleased from time to time, by

* The China and Japan Orders in Council were applied to Corea by the China, Japan, and Corea Order in Council, 1884, printed at p. 266 below, and repealed as to Japan by the Order of 1900 printed at p. 276 below, and as to Wei-hai-Wei by the Order of July 24, 1901, printed at p. 283 below. So much of these Orders as are printed in italics are obsolete or no longer apply to Japan.

† Repealed by the Foreign Jurisdiction Act, 1878 (41 & 42 Vict. c. 67); now repealed and consolidated with other Acts by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

‡ The Foreign Jurisdiction Act, 1843; now repealed and consolidated with other Acts by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

and with the advice of Her Privy Council, by Orders in Council of the several dates in the schedule to this Order specified, to ordain laws and ordinances for the better government of Her Majesty's subjects being within the dominions of the Emperor of China, or being within certain ships or vessels at a distance of not more than one hundred miles from the Coast of China, and to make provision for the exercise of Her Majesty's power and jurisdiction aforesaid in the dominions of the Emperor of China *and of the Tycoon of Japan respectively.*

And whereas it has seemed to Her Majesty, by and with the advice of Her Privy Council, to be expedient at the present time to revise the provisions of the said Orders, and to ordain further and other laws and ordinances for the better government of Her Majesty's subjects being within the dominions of the Emperor of China, or being within such ships or vessels as aforesaid, and to make further and other provision for the due exercise of Her Majesty's power and jurisdiction aforesaid and particularly for the more regular and efficient administration of justice among Her Majesty's subjects resident in or resorting to the dominions of the Emperor of China *or of the Tycoon of Japan.*

And whereas under the authority of provisions in this behalf in the first recited Act contained, ordinances for the peace, order, and good government of Her Majesty's subjects being within the dominions of the Emperor of China, or being within certain ships or vessels at a distance of not more than one hundred miles from the coast of China, have been from time to time made by the superintendent of the trade of Her Majesty's subjects in China (such superintendent being also the Governor of Hong Kong), with the advice of the Legislative Council of Hong Kong, which ordinances are known as consular ordinances.

And whereas such of those consular ordinances as are described in the schedule to this Order are now in force, wholly or in part, but they are liable to repeal by Order of Her Majesty in Council, and it is expedient that they be repealed, such of their provisions as are not intended to be abrogated being consolidated with this Order :

Now, therefore, Her Majesty, by virtue of the powers in this behalf by the first-recited Act and the Foreign Jurisdiction Act, or either of them, or otherwise, in Her vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

I.—Preliminary.

1. This Order may be cited as the *China and Japan Order* in Council, 1865.

2. In this Order—

The term "*China*" means the dominions of the Emperor of China :

The term "*Japan*" means the dominions of the Tycoon of Japan :

The term "minister" means the superior diplomatic representative of Her Majesty for the time being, whether Ambassador, Envoy, Minister Plenipotentiary, or Chargé d'Affaires :

The term "chief superintendent of trade" means the superintendent of the trade of Her Majesty's subjects in China for the time being, or any person for the time being authorised to act as such :

The term "consular officer" includes every officer in Her Majesty's Consular Service, whether Consul-General, Consul, Vice-Consul, or Consular Agent, or person authorised to act in any such capacity in China or in Japan : *

The term "British vessel" includes every vessel being a British ship within the meaning of the Merchant Shipping Act, 1854,† or any other Act of Parliament for the time being in force for the regulation of merchant shipping,—and any vessel owned wholly or in part by any person entitled to be the owner of a British ship in the sense aforesaid,—and any vessel provided with sailing letters from the governor or officer administering the Government of Hong Kong, or from the chief superintendent of trade :

The term "treaty" includes convention and any agreement, regulations, rules, articles, tariff, or other instrument annexed to a treaty or agreed on in pursuance of any stipulation thereof :

The term "month" means calendar month :

Words importing the plural or the singular may be construed as referring to one person or thing, or more than one person or thing, and words importing the masculine as referring to females (as the case may require).

3. The provisions of this Order relating to British subjects apply to all subjects of Her Majesty, whether by birth or by naturalisation.

The provisions of this Order relating to foreigners apply to subjects of the Emperor of China and of the Tycoon of Japan respectively and subjects or citizens of any State other than China or Japan (not being enemies of Her Majesty).

II.—General Provisions respecting Her Majesty's Jurisdiction.

4. All Her Majesty's jurisdiction exerciseable in China or in Japan for the judicial hearing and determination of matters in difference between British subjects, or between foreigners and British subjects,—or for the administration or control of the property or persons of British subjects,—or for the repression or punishment of crimes or offences committed by British subjects

* Extended by Order of April 30, 1877, printed at p. 247 below.

† 17 & 18 Vict. c. 104 ; now repealed and consolidated with other Acts by the Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60).

—or for the maintenance of order among British subjects,—shall be exercised under and according to the provisions of this Order, and not otherwise.

5. Subject to the other provisions of this Order, the civil and criminal jurisdiction aforesaid shall, as far as circumstances admit, be exercised upon the principles of and in conformity with the Common Law, the Rules of Equity, the Statute Law, and other law for the time being in force in and for England, and with the powers vested in and according to the course of procedure and practice observed by and before Courts of Justice and Justices of the Peace in England, according to their respective jurisdictions and authorities.

6. Except as to offences made or declared such by this Order, or by any regulation or rule made under it,—

Any act other than an act that would by a Court of Justice having criminal jurisdiction in England be deemed a crime or offence making the person doing such act liable to punishment in England shall not, in the exercise of criminal jurisdiction under this Order, be deemed a crime or offence making the person doing such act liable to punishment.

III.—*Constitution of Her Majesty's Courts.*

1.—*The Supreme Court at Shanghai.*

7. There shall be a Court styled Her Britannic Majesty's Supreme Court for China and Japan. *

The Supreme Court shall have a seal bearing its style and such device as one of Her Majesty's Principal Secretaries of State from time to time directs.

8. The Supreme Court shall hold its ordinary sittings at Shanghai, or on emergency, at any other place within the district of the Consulate of Shanghai; but may at any time transfer its ordinary sittings to any such place in China as one of Her Majesty's Principal Secretaries of State or Her Majesty's Minister in China approves.

9–22. * * * [Arts. 9–22 were revoked and other provision made by “*The China and Japan Order in Council, 1878*,” printed at p. 250 below.]

23. The Judge, Assistant Judge, [and Law Secretary]† shall hold office during the pleasure of Her Majesty, but any warrant of appointment to the office of Judge, Assistant Judge, or Law Secretary shall not be vacated by reason only of a demise of the Crown.

In case at any time Her Majesty thinks fit by warrant under Her Royal sign manual to revoke the warrant appointing any

* Now “His Britannic Majesty's Supreme Court for China and Corea,” see Order of 1900, printed at p. 276 below.

† The office of Law Secretary was abolished by “The China and Japan Order in Council, 1878,” printed at p. 250 below.

person to be Judge, Assistant Judge, [*or Law Secretary*]*—or while there is a Judge, Assistant Judge, [*or Law Secretary*]* in office, thinks fit by warrant under Her Royal sign manual to appoint another person to be Judge, Assistant Judge, [*or Law Secretary*]* (as the case may be),—then and in every such case, until the warrant of revocation or of new appointment is notified by Her Majesty's Minister in China to the person holding office, all powers and authorities vested in that person shall continue and be deemed to have continued in as full force,—and he shall continue and be deemed to have continued entitled to all the privileges and emoluments of the office as fully,—and all things done by him shall be and be deemed to have been as valid in law,—as if such warrant of revocation or new appointment had not been made.

24. One of Her Majesty's Principal Secretaries of State may, and Her Majesty's Ministers in China and Japan respectively with the approval of the Judge of the Supreme Court in each instance first obtained may from time to time temporarily attach to the Supreme Court any persons holding appointments as Consuls or Vice-Consuls.

Every person so attached shall discharge such duties in connexion with the Court as the Judge from time to time, with the approval of one of Her Majesty's Principal Secretaries of State, directs, and shall have the like power and authority as the Assistant Judge [*or Law Secretary*]* has, according as in each case the nature of the duties directed to be discharged by the person so attached may require.

II.—*The Provincial Courts.*

25.† Each of Her Majesty's Consuls-General, Consuls, and Vice-Consuls (holding a commission as such from Her Majesty) resident in China or in Japan (with the exception of Her Majesty's Consul at Shanghai, and with such other exceptions as one of Her Majesty's Principal Secretaries of State at any time thinks fit to make),—or any person acting temporarily, with the approval of one of Her Majesty's Principal Secretaries of State, or of Her Majesty's Minister in China or in Japan, as and for a Consul-General, Consul, or Vice-Consul, so commissioned as aforesaid,—shall, for and in his own consular district, hold and form a Court styled Her Britannic Majesty's Court at [*Canton, or as the case may be*],—hereafter in this Order called a Provincial Court.

Each Provincial Court shall have a seal bearing its style and such device as one of Her Majesty's Principal Secretaries of State from time to time directs.

IV.—*Juries. Assessors.*

26. Every male British subject resident in China or in Japan, —being of the age of 21 years or upwards,—being able to speak

* The office of Law Secretary was abolished by "The China and Japan Order in Council, 1878," printed at p. 250 below.

† Extended to Acting Consuls by the Order in Council of April 30, 1877, printed at p. 247 below.

and read English,—having or earning a gross income at the rate of not less than 250 dollars a year,—not having been attained of treason or felony, or convicted of any crime that is infamous (unless he has obtained a free pardon),—and not being under outlawry,—shall be qualified to serve on a jury.

27. All persons so qualified shall be liable so to serve, except the following :—

- Persons in Her Majesty's diplomatic, consular, or other civil service in actual employment ;
- Officers, clerks, keepers of prisons, messengers, and other persons attached to or in the service of any of Her Majesty's Courts ;
- Officers and others on full pay in Her Majesty's navy or army, or in actual employment in the service of any department connected therewith ;
- Persons holding appointments in the civil service, and commissioned officers in the naval or military service, of the Emperor of China, *or of the Tycoon of Japan* ;
- Clergymen and ministers in the actual discharge of professional duties ;
- Advocates and attorneys in actual practice ;
- Physicians, surgeons, and apothecaries in actual practice ;
- and except persons disabled by mental or bodily infirmity.

28. On or before the 14th day of September in the year 1865, and on or before the 14th day of January in every subsequent year, each Court shall make out a list of the persons so qualified and liable, resident within its district.

The list shall, on or before the 21st day of the same respective month, be affixed in some conspicuous place in the Court, and shall be there exhibited until the end of that month, with a notice annexed that on a day specified, not being sooner than the 7th or later than the 14th day of the then next month, the Court will hold a special sitting for the revision of the list.

The Court shall hold such special sitting accordingly, and at such sitting, or at some adjournment thereof (of which public notice shall be given), shall revise the list by striking out the name of any person appearing to be not qualified or not liable to serve, and by inserting the name of any person omitted and appearing to be so qualified and liable, either on the application of the person omitted, or on such notice to him as the Court thinks fit.

The list shall be finally revised and settled not later than the 21st day of October in the year 1865, and not later than the 21st day of February in every subsequent year, and when settled shall be affixed in some conspicuous place in the Court, and be there exhibited during not less than two months.

Such list, as settled, shall be brought into use in the year 1865, on the 1st day of November, and in every subsequent year on the 1st day of March, and in every case shall be used as the jury list of the Court until the 1st day of March next after the time of its being brought into use.

29. Where, in pursuance of this Order, a jury is ordered, the

Court shall summon so many of the persons comprised in the jury list, not fewer than fifteen, as seem requisite.

Any person failing to attend according to such summons shall be liable to such fine, not exceeding 50 dollars, as the Court thinks fit to impose.

Any such fine shall not be levied until after the expiration of 14 days. The proper officer of the Court shall forthwith give to the person fined notice in writing of the imposition of the fine, and require him within six days after receipt of the notice to file an affidavit excusing his non-attendance (if he desires to do so). The Court shall consider the affidavit, and may, if it seems proper, remit the fine.

30. A jury shall consist of five jurors.

31. In civil and criminal cases the like challenges shall be allowed as in England, with this addition,—that in civil cases each party may challenge three jurors peremptorily.

32. A jury shall be required to give an unanimous verdict.

33. Where a Provincial Court proceeds, in pursuance of this Order, to hear and determine any case, civil or criminal, with assessors, the Court shall nominate and summon as assessors, not less than two and not more than four indifferent British subjects of good repute, resident in the district of the Court.

Where, however, by reason of local circumstances, the Court is able to obtain the presence of one fit person only as assessor, the Court may sit with him alone as assessor; and where for like reasons the Court is not able to obtain the presence of any fit person as assessor, the Court may (notwithstanding anything in this Order) sit without an assessor; but in every such case the Court shall record in the minutes of proceedings its reasons for sitting with one assessor only, or without an assessor.

34. An assessor shall not have voice or vote in the decision of the Court in any case, civil or criminal; but an assessor dissenting in a civil case from any decision of the Court, or in a criminal case from any decision of the Court or the conviction or the amount of punishment awarded, may record in the minutes of proceedings his dissent and the grounds thereof; and an assessor dissenting shall be entitled to receive gratis a certified copy of the minutes.

V.—*Jurisdiction and Authorities of Her Majesty's Courts.*

1.—*In General.*

35. All Her Majesty's jurisdiction, civil and criminal, exercisable in China, shall, for and within the district of the Consulate of Shanghai, be vested exclusively in the Supreme Court as its ordinary original jurisdiction.

36.* All Her Majesty's jurisdiction, civil and criminal, exerciseable in China beyond the district of the Consulate of Shanghai and not under this Order vested exclusively in the Supreme Court,—and all Her Majesty's jurisdiction, civil and criminal, exerciseable in Japan and not under this Order vested exclusively in the Supreme Court,]*—shall, to the extent and in the manner provided by this Order, be vested in the Provincial Courts each for and within its own district.

37.* The Supreme Court shall have, in all matters civil and criminal, an extraordinary original jurisdiction throughout China [and Japan]* concurrent with the jurisdiction of the several Provincial Courts, such extraordinary jurisdiction to be exercised subject and according to the provisions of this Order.

38. The Judge of the Supreme Court may, from time to time, visit in a magisterial or judicial capacity any Provincial Court, and there inquire of, or hear and determine, any case, civil or criminal, pending in that Court, or arising within its district,—or, from time to time, may appoint the Assistant Judge [or the Law Secretary]† of the Supreme Court to visit in the like capacity and for the like purpose any Provincial Court.

39. A Provincial Court may, of its own motion, or on the application of any person concerned, report to the Supreme Court the pendency of any case, civil or criminal, which appears to the Provincial Court fit to be heard and determined by the Supreme Court.

The Supreme Court shall thereupon direct in what mode and where the case shall be heard and determined, and (notwithstanding anything in this Order) the same shall be so heard and determined accordingly.

40. Every Court shall, in the exercise of every part of its respective jurisdiction, be a Court of Record.

41. The Judge of the Supreme Court may from time to time admit fit persons to practice in the Supreme Court as barristers, attorneys, and solicitors, or in any of those capacities.

The Judge of the Supreme Court may from time to time, subject to the approval of one of Her Majesty's Principal Secretaries of State, make rules for regulating the admission of persons to practice as aforesaid in Provincial Courts.

42. [*Revoked and other provision made by Order of July 1899, printed at p. 275 below.*]

43. Each Provincial Court shall execute any writ, order, or warrant issuing from the Supreme Court and directed to the Provincial Court;—and may take security from any person named therein for his appearance personally or by attorney,

* Arts. 36, 37 were revoked as to Japan by "The China and Japan Order in Council, 1878," printed at p. 250 below.

† The office of Law Secretary was abolished by "The China and Japan Order in Council, 1878," printed at p. 250 below.

according to the writ, order, or warrant;—or may cause such person to be taken, in custody or otherwise, to the Supreme Court, or elsewhere in China or Japan, according to the writ, order, or warrant.

44. Any of Her Majesty's Courts in China or in Japan may execute any writ, order, or warrant issuing from the Supreme Court of Hong Kong, and accompanied by a request for such execution in writing under the seal of that Court;—and may take security from any person named in any such writ, order, or warrant, for his appearance personally or by attorney at Hong Kong;—or may cause any such person to be taken in custody or otherwise, to Hong Kong, according to the writ, order, or warrant.

45. Any of Her Majesty's judicial or consular officers shall not be liable to an action for the escape of any person taken under any writ, order, or warrant of the Supreme Court of Hong Kong.

46. Her Majesty's several Courts in China or Japan shall be auxiliary to one another in all particulars relative to the administration of justice, civil or criminal.

47. Each Provincial Court shall every six months furnish to the Supreme Court for China and Japan a report respecting every case, civil and criminal, brought before it, in such form as the Judge of the Supreme Court from time to time directs.

II.—*In Civil Matters.*

Reconciliation and Arbitration.

48. Every Court may promote reconciliation, and encourage and facilitate the settlement in an amicable way of any suit or proceeding pending before it.

49. A Court may, with the consent of the parties, refer to arbitration the final determination of any suit or proceeding pending before it, or of all matters in difference between the parties, on such terms and with such directions as to appointment of an arbitrator and other things as may seem fit, and may, if it thinks fit, take from the parties, or any of them, security to abide by the result of the reference.

In any such case the award shall be final and conclusive.

On the application of any party a decree of the Court may be entered in conformity with the award, and such decree shall not be open to any appeal or re-hearing whatever.

50. Every agreement for reference to arbitration or submission to arbitration by consent may, on the application of any party, be made a rule of a Court having jurisdiction in the matter of the reference or submission, which Court shall thereupon have power and authority to enforce the agreement or submission and the award made thereunder, and to control and regulate the proceedings before and after the award in such manner and on such terms as may be just.

General Authority of Courts.

51. The Supreme and every other Court shall be a Court of Law and of Equity.

Special Authorities of Courts.

52. The Supreme and every other Court shall be a Court of Bankruptcy, and as such shall, as far as circumstances admit, have (as to a Provincial Court, for and within its own district), with respect to British subjects and to their debtors and creditors, being either British subjects or foreigners submitting to the jurisdiction of the Court, all such jurisdiction as for the time being belongs to the Court of Bankruptcy and the County Courts in England, or to any other judicial authority having for the time being jurisdiction in Bankruptcy in England.

53. The Supreme and every other Court shall (as to a Provincial Court, for and within its own district) have and discharge all the powers, rights, and duties appertaining to the office of coroner in England,—summoning when necessary a jury of not less than three persons comprised in the jury list of the Court.*

Any person failing to attend according to such summons shall be liable to the like fine, to be levied in the like manner, as in this Order provided with reference to juries in civil and criminal proceedings.

54. The Supreme Court shall be a Vice-Admiralty Court, and as such shall, for and within China *and Japan*, and for vessels and persons coming to and within China *or Japan*, have all such jurisdiction as for the time being ordinarily belongs to Vice Admiralty Courts in Her Majesty's possessions abroad.

55. The Supreme Court shall, as far as circumstances admit, have in itself exclusively, for and within China *and Japan*, with respect to British subjects, all such jurisdiction relative to the custody and management of the persons and estates of persons of unsound mind as for the time being belongs to the Lord Chancellor or other person or persons in England intrusted by virtue of Her Majesty's sign manual with the care and commitment of the custody of the persons and estates of persons found by inquisition in England, idiot, lunatic, or of unsound mind.

56. The Supreme Court shall be a Court for Matrimonial Causes, and as such shall, as far as circumstances admit, have in itself exclusively, for and within China *and Japan*, with respect to British subjects, all such jurisdiction, except the jurisdiction relative to dissolution or nullity or jactitation of marriage, as for the time being belongs to the Court for Divorce and Matrimonial Causes in England.

57. The Supreme Court shall be a Court of Probate, and as such shall, as far as circumstances admit, have, for and within

* Extended to the Registrar by Order of 1898, printed at p. 272 below.

China and Japan, with respect to the property of British subjects having at the time of death their fixed places of abode in *China or Japan*, all such jurisdiction as for the time being belongs to Her Majesty's Court of Probate in England.

A Provincial Court shall, however, also have power to grant probate or administration where there is no contention respecting the right to the grant, and it is proved on oath that the deceased had at the time of his death his fixed place of abode within the jurisdiction of the Provincial Court.

Probate or administration granted by a Provincial Court shall have effect over all the property of the deceased within *China and Japan*, and shall effectually discharge persons dealing with an executor or administrator thereunder, and that, notwithstanding any defect afterwards appears in the grant.

Such a grant shall not be impeachable by reason only that the deceased had not at the time of his death his fixed place of abode within the particular jurisdiction.

58. Any person having in his possession or under his control any paper or writing of a deceased British subject being or purporting to be testamentary, shall forthwith bring the original to the Court within the district whereof such person is at the time of his first knowledge of the death of the deceased, and deposit it there.

Any person neglecting to do so for fourteen days after having knowledge of the death of the deceased, shall be liable to such penalty, not exceeding 250 dollars, as the Court thinks fit to impose.

59. From the death of a British subject, having at the time of death his fixed place of abode in *China or Japan*, intestate, until administration granted, his personal property within *China and Japan* shall be vested in the Judge of the Supreme Court, as the personal property of an intestate in England is vested in the Judge of Her Majesty's Court of Probate there.

60. If any person, other than one of Her Majesty's consular officers, takes possession of and in any manner administers any part of the personal property of any person deceased without obtaining probate or administration within three months after the death of the deceased,—or within one month after the termination of any suit or dispute respecting probate or administration (if there is any such which is not ended within two months after the death of the deceased),—he shall be liable to such penalty not exceeding 500 dollars as the Court having jurisdiction in the matter of the property of the deceased thinks fit to impose; and in every such case the same fees shall be payable by the person so administering as would have been payable by him if he had obtained probate or administration.

61. Where a British subject, not having at the time of death his fixed place of abode in *China or Japan*, dies there, the Court within whose district he dies shall, where the circumstances of the case appear to the Court so to require, forthwith, on the death

of the deceased, or as soon after as may be, take possession of his personal property within the particular jurisdiction, or put it under the seal of the Court (in either case, if the nature of the property or other circumstances so require, making an inventory), and so keep the property until it can be dealt with according to law.

Trial with a Jury.

62. Where a suit originally instituted in the Supreme Court relates to money, goods, or other property or any matter at issue of the amount or value of 1500 dollars or upwards,—or is brought for recovery of damages of the amount of 1500 dollars or upwards,—the suit shall, on the demand of either party, be under order of the Court, tried with a jury.

In any case (except where, according to the Rules of the Court, the suit is to be heard and determined in a summary way) a suit so instituted may be tried with a jury, if the Court, of its own motion or on the application of either party, thinks fit so to order.

One of Her Majesty's Principal Secretaries of State may, by order under his hand, extend the present provision to any Provincial Court where it appears to him there is a sufficient jury list.

Trial with Assessors.

63. Where a suit instituted in a Provincial Court relates to money, goods, or other property of a less amount or value than 1500 dollars,—or does not relate to or involve, directly or indirectly, a question respecting any matter at issue of the amount or value of 1500 dollars or upwards,—or is brought for recovery of damages of a less amount than 1500 dollars,—the Court may hear and determine the case without assessors.

In all other cases the Court (subject to the provisions of this Order respecting inability to obtain an assessor) shall hear and determine the case with assessors.

III.—*In Criminal Matters.*

64. Every Court may cause to be apprehended and brought before it any British subject being within the district of the Court and charged with having committed a crime or offence in China or in Japan, and may deal with the accused according to the jurisdiction of the Court and in conformity with the provisions of this Order ;—or where the crime or offence is triable, and is to be tried, in Her Majesty's dominions, may take the preliminary examination, and commit the accused for trial, and cause or allow him to be taken to the place of intended trial.

65. Where a person charged with having committed a crime or offence in the district of one Court escapes or removes from that district and is found within the district of another Court, the Court within the district of which he is found may proceed in the case to examination, indictment, trial, and punishment,

or in a summary way (as the case may require), in the same manner as if the crime or offence had been committed in its own district ;— or may, on the requisition or with the consent of the Court of the district in which the crime or offence is charged to have been committed, send him in custody to that Court, or require him to give security for his surrender to that Court, there to answer the charge and be dealt with according to law.

Where any person is to be so sent in custody a warrant shall be issued by the Court within the district of which he is found, and such warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person therein named, and carry him to and deliver him up to the Court of the district within which the crime or offence was committed, according to the warrant.

66. Where a warrant or order of arrest is issued by a competent authority in Her Majesty's dominions for the apprehension of a British subject, who is charged with having committed a crime or offence within the jurisdiction of the authority issuing the warrant or order, and who is, or is supposed to be, in *China or in Japan*, and the warrant or order is produced to any Court, the Court may back the warrant or order ; and the same, when so backed, shall be sufficient authority to any person to whom the warrant or order was originally directed, and also to any constable or other officer of the Court by which it is backed, to apprehend the accused at any place where the Court by which the warrant or order is backed has jurisdiction, and to carry him to and deliver him up in Her Majesty's dominions, according to the warrant or order.

67. Where any person is charged with the commission of a crime or offence the cognisance whereof appertains to any of Her Majesty's Courts in *China or in Japan*, and it is expedient that the crime or offence be inquired of, tried, determined, and punished within Her Majesty's dominions, the accused may (under the Foreign Jurisdiction Act,* section 4), be sent for trial to Hong Kong.

The Judge of the Supreme Court may, where it appears expedient, by warrant under his hand and seal and the seal of the Supreme Court, cause the accused to be taken for trial to Hong Kong accordingly.

Where any person is to be so taken to Hong Kong, the Court before which he is charged shall take the preliminary examination, and shall send the depositions to Hong Kong, and (if it seems necessary or proper) may bind over such of the proper witnesses as are British subjects in their own recognisances to appear and give evidence on the trial.

68. All crimes which in England are capital shall be tried by the Judge of the Supreme Court with a jury.

Other crimes and offences above the degree of misdemeanour, tried before the Judge, Assistant Judge, or Law Secretary of the

* 6 & 7 Vict. c. 94 ; now repealed and consolidated with other Acts by the Foreign Jurisdiction Act, 1880 (53 & 54 Vict. c. 37).

Supreme Court, and not heard and determined in a summary way, shall be tried with a jury.

Any crime or offence tried before the Judge, Assistant Judge, or Law Secretary of the Supreme Court, may be tried with a jury where the Judge, Assistant Judge, or Law Secretary so directs.

Subject to the foregoing provisions, such classes of criminal cases tried before the Judge, Assistant Judge, or Law Secretary of Supreme Court, as the Judge, having regard to the law and practice existing in England, from time to time directs, shall be heard and determined in a summary way.

69. Where any person is sentenced to suffer the punishment of death, the Judge of the Supreme Court shall forthwith send a report of the sentence, with a copy of the minutes of proceedings and notes of evidence in the case, and with any observations the Judge thinks fit, to Her Majesty's Minister in China *or in Japan*, according as the crime is committed in China *or in Japan*.

The sentence shall not be carried into execution without the direction of Her Majesty's Minister in China *or in Japan* (as the case may be) in writing under his hand.

In any such case, if Her Majesty's Minister in China *or in Japan* (as the case may be) does not direct that the sentence of death be carried into execution, he shall direct what punishment in lieu of the punishment of death is to be inflicted on the person convicted, and the person convicted shall be liable to be so punished accordingly.

70. Where the crime or offence with which any person is charged before a Provincial Court is any crime or offence other than assault endangering life, cutting, maiming, arson, or house-breaking, and appears to the Court to be such that, if proved, it would be adequately punished by imprisonment, with or without hard labour, for a term not exceeding three months, or by a fine not exceeding 200 dollars, the Court shall hear and determine the case in a summary way and without assessors.

In other cases the Court shall hear and determine the case on indictment and with assessors (subject to the provisions of this Order respecting inability to obtain an assessor).

71. A provincial Court may impose the punishment of imprisonment for any term not exceeding twelve months, with or without hard labour, and with or without a fine not exceeding 1000 dollars, or the punishment of a fine not exceeding 1000 dollars, without imprisonment.

72. Where the crime or offence with which any person is charged before a Provincial Court appears to the Court to be such that, if proved, it would not be adequately punished by such punishment as the Court has power to impose, and the accused is not to be sent for trial to Her Majesty's dominions, the Court shall reserve the case to be heard and determined by or under the special authority of the Supreme Court.

The Provincial Court shall take the depositions, and forthwith

send them, with a minute of other evidence, if any, and a report on the case, to the Supreme Court.

The Supreme Court shall direct in what mode and where the case shall be heard and determined, and (notwithstanding anything in this Order) the same shall be so heard and determined accordingly.

73. Every Court and authority in imposing and inflicting punishments, and Her Majesty's Ministers in China and *Japan* in directing what punishment is to be inflicted in lieu of the punishment of death, shall have regard, as far as circumstances admit, and subject to the other provisions of this Order, to the punishments imposed by the law of England in like cases, and to the mode in which the same are inflicted in England.

74. Any Court (but, in the case of a Provincial Court, subject to the approval of the Supreme Court), may order any person convicted before it of any crime or offence to pay all or any part of the expenses of or preliminary to his trial and of his imprisonment or other punishment.

75. Where it appears to any Court that any charge made before it is malicious, or is frivolous and vexatious, the Court may order all or any part of the expenses of the prosecution to be paid by the person making the charge.

76. In either of the two last-mentioned cases, the amount ordered to be paid shall be deemed a debt due to the Crown and may, by virtue of the order, without further proceedings be levied on the property of the person convicted or making the charge, as the case may be.

77. Where any punishment has been awarded by the Supreme, or any other Court, then, if the circumstances of the case make it just or expedient, the Judge of the Supreme Court may at any time, and from time to time, report to one of Her Majesty's Principal Secretaries of State, or to Her Majesty's Minister in China or in *Japan* (according as the crime or offence was committed in China or *Japan*), recommending a mitigation or remission of the punishment; and on such recommendation any such punishment may be mitigated or remitted by direction of the authority to whom the report is made.

But no such recommendation shall be made with respect to any punishment awarded by a Provincial Court, except on the recommendation of that Court, or on the dissent of an assessor (if any) from the conviction or from the amount of punishment awarded.

78. The Judge of the Supreme Court may, where it seems expedient, by warrant under his hand and the seal of the Supreme Court, cause any offender convicted before any Court and sentenced to imprisonment to be taken to and imprisoned at any place in China or in *Japan* from time to time approved by one of Her Majesty's Principal Secretaries of State as a place of imprisonment for offenders.

A warrant of the Supreme Court shall be sufficient authority

to the governor or keeper of such place of imprisonment or other person to whom it is directed to receive and detain there the person therein named according to the warrant.

79. Where any offender convicted before a Court in China or in Japan is sentenced to suffer imprisonment in respect of the crime or offence of which he is convicted, and it is expedient that the sentence be carried into effect within Her Majesty's dominions, the offender may (under the Foreign Jurisdiction Act,* section 5) be sent for imprisonment to Hong Kong.

The Judge of the Supreme Court may, where it seems expedient, by warrant under his hand and seal and the seal of the Supreme Court, cause the offender to be taken to Hong Kong in order that the sentence passed on him may be there carried into effect accordingly.

80. The Judge of the Supreme Court shall, when required by one of Her Majesty's Principal Secretaries of State, send to the Secretary of State a report of the sentence passed by the Judge, Assistant Judge, or Law Secretary of the Court in every case not heard and determined in a summary way, with a copy of the minutes of proceedings and notes of evidence and the Judge may send with such report any observations he thinks fit.

Every Provincial Court shall forthwith send to the Judge of the Supreme Court a report of the sentence passed by it in every case not heard and determined in a summary way, with a copy of the minutes of proceedings and notes of evidence, and with any observations the Court thinks fit. The Judge of the Supreme Court shall, when required by one of Her Majesty's Principal Secretaries of State, transmit the same to the Secretary of State, and may send therewith any observations he thinks fit.

VI.—War, Insurrection, or Rebellion.

81. If any British subject commits any of the following offences, that is to say :—

- (1.) In China, while Her Majesty is at peace with the Emperor of China, levies war or takes part in any operation of war against the Emperor of China, or aids or abets any person in carrying on war, insurrection, or rebellion against the Emperor of China ;
- (2.) In Japan, while Her Majesty is at peace with the Tycoon of Japan, levies war or takes part in any operation of war against the Tycoon of Japan, or aids or abets any person in carrying on war, insurrection, or rebellion, against the Tycoon of Japan ;—

every person so offending shall be deemed guilty of a misdemeanour, and on conviction thereof shall be liable (in the discretion of the Court before which he is convicted) to be punished by imprison-

* 6 & 7 Vict. c. 94 ; now repealed and consolidated with other Acts by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

ment for any term not exceeding two years, with or without hard labour, and with or without a fine not exceeding 5000 dollars, or by a fine not exceeding 5000 dollars, without imprisonment.

In addition to such punishment, every such conviction shall, of itself and without further proceedings, make the person convicted liable to deportation; and the Court before which he is convicted may order that he be deported from China or Japan to such place as the Court directs.

82. If any British subject without the license of Her Majesty (proof whereof shall lie on the party accused) takes part in any operation of war in the service of the Emperor of China against any persons engaged in carrying on war, insurrection, or rebellion against the Emperor of China, he shall be deemed guilty of a misdemeanour, and on conviction thereof shall be liable (in the discretion of the Court before which he is convicted) to be punished by imprisonment for any term not exceeding two years with or without hard labour, and with or without a fine not exceeding 5000 dollars, or by a fine not exceeding 5000 dollars, without imprisonment.

83. If the Court before which any person charged with having committed such a misdemeanour as in the two last preceding articles mentioned is brought is a Provincial Court, the Court shall report to the Judge of the Supreme Court the pendency of the case.

The Judge of the Supreme Court shall thereupon direct in what mode and where the case shall be heard and determined, and (notwithstanding anything in this Order) the case shall be so heard and determined accordingly.

VII.—*Treaties and Regulations.*

84. If any British subject in China or in Japan violates or fails to observe any stipulation of any treaty between Her Majesty, Her heirs or successors, and the Emperor of China or the Tycoon of Japan for the time being in force, in respect of the violation whereof any penalty is stipulated for in the treaty, he shall be deemed guilty of an offence against the treaty, and on conviction thereof under this Order shall be liable to a penalty not exceeding the penalty stipulated for in the treaty.

85-91. * * * [Arts. 85-91 repealed by "The China and Japan Order in Council, 1881," printed at p. 255 below.]

VIII.—*Unlawful Trade with Japan.**

92. All trade of British subjects in, to, or from any part of Japan, except such ports and towns as are for the time being opened to British subjects by treaty between Her Majesty, Her heirs or successors, and the Tycoon of Japan, is hereby declared unlawful.

If any person engages in such trade as a principal, agent, ship-owner, ship-master, or supercargo, he shall be deemed guilty of a misdemeanour, and on conviction thereof shall be liable to be

* See first footnote, p. 214 above.

punished (in the discretion of the Court before which he is convicted) by imprisonment for any term not exceeding two years with or without hard labour, and with or without a fine not exceeding 10,000 dollars, or by a fine not exceeding 10,000 dollars without imprisonment.

93. *If the Court before which any person charged with having committed such a misdemeanour is brought is a Provincial Court, the Court shall report to the Judge of the Supreme Court the pendency of the case.*

The Judge of the Supreme Court shall thereupon direct in what mode and where the case shall be heard and determined and (notwithstanding anything in this Order) the case shall be so heard and determined accordingly.

94. *The officer commanding any of Her Majesty's vessels of war or any of Her Majesty's naval officers authorised in this behalf by the officer having the command of Her Majesty's naval forces in Japan by writing under his hand, may seize any British vessel engaged or reasonably suspected of being or having been engaged in any trade by this Order declared unlawful, and may either detain the vessel, with the master, officers, supercargo, crew, and other persons engaged in navigating the vessel, or any of them, or take or cause to be taken the vessel, and the master, officers, supercargo, crew, and other persons aforesaid, or any of them, to any port or place in Japan or elsewhere convenient for the prosecution of a charge for the misdemeanour alleged to have been committed.*

Any such vessel, master, officers, supercargo, crew, and persons may lawfully be detained at the place of seizure or at the port or place to which the vessel is so taken under the authority of any such officer, or of any of Her Majesty's consular officers in China or in Japan, until the conclusion of any proceedings taken in respect of such misdemeanour.

IX.—Japanese Waters.*

95. *When and as often as it appears to Her Majesty's Minister in Japan that the unrestricted entrance of British vessels into or the unrestricted passage of British vessels through any strait or other water in Japan may lead to acts of disturbance or violence, or may otherwise endanger the maintenance of peaceful relations and intercourse between Her Majesty's subjects and the subjects of the Tycoon of Japan, Her Majesty's Minister may make any regulation for prohibiting, or for restricting in such manner as seems expedient, the entrance or passage of any British vessel (other than a vessel of war of Her Majesty) into or through any such strait or other water as aforesaid as defined in the regulation.*

Her Majesty's Minister may from time to time revoke or alter any such regulation.

96. *The foregoing provisions of this order relative to the making, printing, publication, enforcement, and proof of regulations to be made by Her Majesty's Minister in Japan, and to the mode of proceeding in respect of any charge for an offence against any*

* See first footnote, p. 214 above.

such regulations, shall extend and apply, mutatis mutandis, to any regulation made by Her Majesty's Minister in Japan, as last aforesaid.

97. *If any person navigating a British vessel wilfully violates, or wilfully attempts to violate, any such regulation, the officer commanding any vessel of war of Her Majesty, or in charge of any boat belonging to such vessel of war, may use force for the purpose of compelling him to desist from the violation or attempted violation of the regulation, and if it appears necessary or expedient may seize the vessel, and such commanding officer may either detain her at the place of seizure, or take her, or cause her to be taken to any port or place in Japan or elsewhere, where the offender may be more conveniently prosecuted for such offence.*

Any such vessel may lawfully be detained at the place of seizure, or at the port or place to which she is so taken, under the authority of any such commanding officer, or of any of Her Majesty's consular officers in Japan, until the conclusion of any proceedings taken in respect of the offence.

X.—Piracy.

98. Any British subject being in China or in Japan may be proceeded against, tried, and punished under this Order for the crime of piracy wherever committed.

99. If the Court before which a British subject charged with the crime of piracy is brought is a Provincial Court, the Court shall report to the Judge of the Supreme Court the pendency of the case.

The Judge of the Supreme Court shall thereupon direct in what mode and where the case shall be heard and determined, and (notwithstanding anything in this Order) the case shall be so heard and determined accordingly.

XI.—Offences against Religion.

100. If any British subject is guilty of publicly deriding, mocking, or insulting any religion established or observed in China or in Japan,—or of publicly offering any insult to any religious service, feast, or ceremony established or kept in any part of China or in Japan, or to any place of worship, tomb, or sanctuary belonging to any such religion, or to the ministers or professors thereof,—or of wilfully committing any act tending to bring any such religion, or its ceremonies, mode of worship, or observances into hatred, ridicule, or contempt, and thereby to provoke a breach of the public peace,—he shall be liable (in the discretion of the Court before which he is convicted) to imprisonment for any term not exceeding two years, with or without hard labour, and with or without a fine not exceeding 500 dollars, or to a fine not exceeding 500 dollars, without imprisonment.

Notwithstanding anything in this Order, every charge against a British subject of having committed any such offence shall be .

heard and determined in a summary way, and any Provincial Court shall have power to impose the punishment aforesaid.

Her Majesty's consular officers shall take such precautionary measures as seem to them proper and expedient for the prevention of such offences.

XII.—*Authority within 100 miles of Coast of China.*

101. Where a British subject, being after the commencement of this Order in *China or in Japan*, is charged with having committed, either before or after the commencement of this Order, any crime or offence within a British vessel at a distance of not more than 100 miles from the coast of China,—or within a Chinese or *Japanese* vessel at such a distance as aforesaid,—or within a vessel not lawfully entitled to claim the protection of the flag of any State, at such a distance as aforesaid,—any of Her Majesty's Courts in *China or in Japan* within the jurisdiction whereof he is found may cause him to be apprehended and brought before it, and may take the preliminary examination and commit him for trial.

102. If the Court before which the accused is brought is a Provincial Court, the Court shall report to the Judge of the Supreme Court the pendency of the case.

The Judge of the Supreme Court shall thereupon direct in what mode and where the case shall be heard and determined, and (notwithstanding anything in this Order) the case shall be so heard and determined accordingly.

103. The provisions of this Order relative to crimes and offences, and proceedings in criminal matters, shall in all respects, as far as may be, extend and apply to every such case, in like manner as if the crime or offence had been committed in *China or Japan*.

104. Where a British subject, being after the commencement of this Order in Hong Kong, is charged with having committed, either before or after the commencement of this Order, any crime or offence within any British, Chinese, *Japanese*, or other such vessel at such a distance as aforesaid, the Supreme Court at Hong Kong shall have and may exercise authority and jurisdiction with respect to the crime or offence as fully as if it had been committed in Hong Kong.

105. Her Majesty's Minister in *China or in Japan*, the Judge or Assistant Judge of the Supreme Court, and any of Her Majesty's consular officers in *China or in Japan*, or the Governor or person administering the Government of Hong Kong, on receiving satisfactory information that any soldier, sailor, marine, or other person belonging to any of Her Majesty's military or naval forces, has deserted therefrom, and has concealed himself in any British, Chinese, *Japanese*, or other such vessel at such a distance as aforesaid, may, in pursuance of such information, issue his warrant for a search after and apprehension of such deserter, and on being satisfied on investigation that any person so apprehended is such

a deserter, shall cause him to be with all convenient speed taken and delivered over to the nearest military station of Her Majesty's forces, or to the officer in command of a vessel of war of Her Majesty serving in China or in Japan, as the case may require.

XIII.—*Deportation.*

106.—(i.) Where it is shown on oath, to the satisfaction of any of Her Majesty's Courts in China or in Japan that there is reasonable ground to apprehend that any British subject in China or in Japan is about to commit a breach of the public peace, or that the acts or conduct of any British subject in China or in Japan are or is likely to produce or excite to a breach of the public peace,—the Court within the jurisdiction whereof he happens to be may cause him to be brought before it and require him to give security to the satisfaction of the Court, to keep the peace, or for his future good behaviour, as the case may require :

(ii.) Where any British subject is convicted, under this Order, of any crime or offence, the Court within the jurisdiction whereof he happens to be may require him to give security to the satisfaction of the Court for his future good behaviour :

In either of these cases, if the person required to give security fails to do so, the Court may order that he be deported from China or Japan to such place as the Court directs.

107. In any case where an order of deportation is made under this Order, the Court shall not, without the consent of the person to be deported, direct the deportation of any person to any place other than Hong Kong or England.

108. A Provincial Court shall forthwith report to the Judge of the Supreme Court any order of deportation made by it, and the grounds thereof.

The Judge of the Supreme Court may reverse the order, or may confirm it with or without variation, and in case of confirmation, shall direct it to be carried into effect.

109. The person to be deported shall be detained in custody until a fit time and opportunity for his deportation arrives.

The Judge of the Supreme Court shall then (and in the case of a person convicted, either after execution of the sentence or while it is in course of execution), by warrant cause him to be taken to the place of deportation.

110. The Judge of the Supreme Court may order that the person to be deported do pay all or any part of the expenses of or preliminary to his deportation.

111. The Judge of the Supreme Court shall forthwith report to one of Her Majesty's Principal Secretaries of State any order of deportation made or confirmed by him and the grounds thereof, and shall also inform Her Majesty's Ministers in China and Japan of the same.

112. Where any person is deported to Hong Kong, he shall on his arrival there be delivered, with the warrant under which he is deported, into the custody of the chief magistrate of police of Hong Kong, or other officer of Her Majesty there lawfully acting as such, who, on receipt of the person deported, with the warrant, shall detain him and shall forthwith report the case to the governor or person administering the Government of Hong Kong, who shall either by warrant (if the circumstances of the case appear to him to make it expedient) cause the person so deported to be taken to England, and in the meantime to be detained in custody (so that the period of such detention do not exceed three months) or else shall discharge him from custody.

113. If any person deported returns to China or Japan without the permission of one of Her Majesty's Principal Secretaries of State, in writing under his hand (which permission the Secretary of State may give), he shall be guilty of an offence against this Order, and shall be liable on conviction thereof to punishment (in the discretion of the Court before which he is convicted) by imprisonment for any term not exceeding one month, with or without hard labour, and with or without a fine not exceeding 200 dollars, or by a fine not exceeding 200 dollars, without imprisonment, and also to be forthwith again deported in manner hereinbefore provided.

XIV.—*Registration of British Subjects.*

114. Every British subject resident in China or Japan,—being of the age of 21 years or upwards,—or being married, or a widower or widow, though under that age,—shall, in the month of January in the year 1866, and every subsequent year, register himself or herself in a register to be kept at the Consulate of the consular district within which he or she resides,—subject to this qualification, that the registration of a man shall be deemed to include the registration of his wife (unless she is living apart from him), and that the registration of the head of a family, whether male or female, shall be deemed to include the registration of all females, being relatives of the head of the family (in whatever degree of relationship), living under the same roof with the head of the family at the time of his or her registration.

Every British subject not so resident arriving at any place in China or Japan where a consular office is maintained, unless borne on the muster roll of a British vessel there arriving, shall within one month after his or her arrival, register himself or herself in a register to be kept at the consular office,—but so that no such person shall be required to register himself or herself more than once in any year, reckoned from the first day of January.

Any person failing so to register himself or herself, and not excusing his or her failure to the satisfaction of the consular officer, shall not be entitled to be recognised or protected as a British subject in China or Japan, and shall be liable to a fine not exceeding ten dollars for each instance of such failure.

115. Every person shall on every registration of himself or herself pay a fee of such amount as one of Her Majesty's Principal Secretaries of State from time to time by order under his hand appoints, such amount either to be uniform for all persons, or to vary according to the circumstances of different classes, as the Secretary of State from time to time by such order directs.

116. The consular officer shall issue to every person so registered a certificate of registration under his hand and consular seal; and the name of a wife (unless she is living apart from her husband) shall be endorsed on her husband's certificate; and the names and descriptions of females whose registration is included in that of the head of the family shall be indorsed on the certificate of the head of the family.

XV.—*Foreigners. Foreign Tribunals.*

117, 118. * * * [Arts. 117, 118 repealed by "The China and Japan Order in Council, 1881, printed at p. 255 below.]

XVI.—*Appeal to Supreme Court.*

(1.) *In Civil Cases.*

119. Where any decision of a Provincial Court, sitting with or without assessors, is given in a civil case in respect of a sum or matter at issue of the amount or value of 250 dollars or upwards,—or determines, directly or indirectly, any claim or question respecting property of the amount or value of 250 dollars or upwards,—any party aggrieved by the decision may apply to the Provincial Court for leave to appeal to the Supreme Court, and shall be entitled to leave on the terms prescribed by the rules made under this Order, and subject to any restrictions and exceptions therein contained.

In any other case the Provincial Court may, if it seems just and expedient, give leave to appeal on like terms.

In any case the Supreme Court may give leave to appeal on such terms as seems just.

(2.) *In Criminal Cases.*

120. Where any person is convicted otherwise than in a summary way of a crime or offence, the Court or officer trying the case may, if it seems fit, reserve for the consideration of the Supreme Court any question of law arising on the trial.

The Court or officer shall then state a special case, setting out the question reserved, with the facts and circumstances on which it arose, and shall send the case to the Supreme Court.

121. Where any person is convicted in a summary way of a crime or offence, and is dissatisfied with the conviction as being erroneous in point of law, the Court or officer trying the case may, on his application in writing, and on compliance by him with any terms prescribed by the rules made under this Order, state a special

case, setting out the facts and the grounds of the conviction, for the opinion of the Supreme Court, and send it to that Court.

122. Where a special case is stated, the Court or officer stating it shall, as seems fit, either postpone judgment on the conviction, or respite execution of the judgment, and either commit the person convicted to prison, or take proper security for him to appear and receive judgment or to render himself in execution (as the case may require) at an appointed time and place.

123. The Supreme Court shall hear and determine the matter and thereupon shall reverse, affirm, or amend the judgment, conviction, or sentence in question,—or set aside the same, and order an entry to be made in the minutes of proceedings to the effect that in the judgment of the Supreme Court the person convicted ought not to have been convicted,—or arrest the judgment,—or order judgment to be given at a subsequent sitting of the Court or officer stating the case,—or make such other order as justice requires,—and shall also give all necessary and proper consequential directions.

124. The judgment of the Supreme Court shall be delivered in open Court after the public hearing of any argument offered on behalf of the prosecution or of the person convicted.

125. Before delivering judgment, the Supreme Court may, if necessary, cause the special case to be amended by the Court or officer stating it.

126. If on an application for a special case, on a summary conviction, it seems to the Court or officer that the application is merely frivolous, but not otherwise, the Court or officer may refuse to state a case.

A Court or officer so refusing shall forthwith send to the Supreme Court a report of the sentence, with a copy of the minutes of proceedings and notes of evidence, and any observations the Court or officer thinks fit, and with a copy of the application for a special case.

The Supreme Court shall examine the report and documents so sent, and, unless the Supreme Court is of opinion that the application was merely frivolous, shall on the application in that behalf of the appellant, if made within one month after the refusal of a special case, proceed to hear and determine the matter according to the foregoing provisions, as nearly as may be as if a special case had been stated.

XVII.—*Rules of Procedure.*

127. The Judge of the Supreme Court may, from time to time, frame rules for any purpose for which it is before in this Order expressed or implied that rules of procedure or practice are to be made, and also for the regulation of procedure and pleading, forms of writs, and other proceedings, expenses of witnesses and prosecutions, costs and fees, in civil and in criminal cases in the Supreme Court and other Courts, including the regulation of cross-suits

and the admission of counter-claims, and the regulation of proceedings thereon, and for the regulation of appeals to the Supreme Court from the other Courts in civil and in criminal cases, and of rehearings before the Judge of the Supreme Court, and may thereby impose reasonable penalties.

Rules affecting the conduct of civil suits shall be so framed as to secure, as far as may be, that cases shall be decided on their merits according to substantial justice without excessive regard to technicalities of pleading or procedure and without unnecessary delay.

Rules framed by the Judge shall not have effect unless and until they are approved by one of Her Majesty's Principal Secretaries of State,—save that in case of urgency declared in any rules framed by the Judge, with the approval of Her Majesty's Minister in China, the same shall have effect, unless and until they are disapproved by one of Her Majesty's Principal Secretaries of State, and notification of such disapproval is received and published by the Judge.

128. A copy of the rules for the time being in force shall be kept exhibited conspicuously in each Court and Consulate in China and Japan.

Printed copies shall be provided and sold at such reasonable price as the Judge of the Supreme Court from time to time directs.

No penalty shall be enforced in any Court for the breach of any rule until the rule has been so exhibited in the Court for one month.

129. A printed copy of any rule, purporting to be certified under the hand of the Judge of the Supreme Court and the seal of that Court, shall be for all purposes conclusive evidence of the due framing, approval, and publication of the contents thereof.

130. From and after the commencement of any rules made by the Judge of the Supreme Court under this Order, all rules and regulations theretofore made by the Chief Superintendent of Trade in China, or by *Her Majesty's Consul General in Japan*, in respect of any matter in respect whereof the Judge of the Supreme Court is by this Order authorised to make rules shall cease to operate.

XVIII.—*Appeal to Her Majesty in Council.*

131. Where any final decree or order of the Supreme Court is made in a civil case in respect of a sum or matter at issue of the amount or value of 2500 dollars or upwards,—or determines directly or indirectly any claim or question respecting property of the amount or value of 2500 dollars or upwards,—any party aggrieved by the decree or order may within fifteen days after the same is made, apply by motion to the supreme Court for leave to appeal to Her Majesty in Council.

132. If leave to appeal is applied for by a party adjudged to pay money or perform a duty, the Supreme Court shall direct either that the decree or order appealed from be carried into execution, or that the execution thereof be suspended, pending the appeal, as the Court considers to be in accordance with substantial justice.

133. If the Court directs the decree or order to be carried into execution, the party in whose favour it is made shall, before the execution of it, give security to the satisfaction of the Court for the due performance of such order as Her Majesty in Council may think fit to make.

134. If the Court directs the execution of the decree or order to be suspended pending the appeal, the party against whom the decree is made shall, before any order for suspension of execution, give security to the satisfaction of the Court for the due performance of such order as Her Majesty in Council may think fit to make.

135. In all cases security shall also be given by the appellant to the satisfaction of the Court to an amount not exceeding 2500 dollars for the prosecution of the appeal, and for payment of all such costs as may be awarded to any respondent by Her Majesty in Council, or by the Lords of the Judicial Committee of Her Majesty's Privy Council.

136. If the last-mentioned security is given within one month from the filing of the motion paper for leave to appeal, then, and not otherwise, the Supreme Court shall give leave to appeal.

137. In any case other than the cases hereinbefore described, the Supreme Court may give leave to appeal on the terms and in the manner aforesaid if it considers it just or expedient to do so.

138. In every case where leave to appeal is given as aforesaid, the appellant shall be at liberty to prefer and prosecute his appeal to Her Majesty in Council according to the rules for the time being in force respecting appeals to Her Majesty in Council from Her colonies, or such other rules as Her Majesty in Council from time to time thinks fit to make concerning appeals from the Supreme Court.

139. Nothing in this Order shall affect the right of Her Majesty at any time, on the humble petition of a party aggrieved by a decision of the Supreme Court in a civil case, to admit his appeal thereon on such terms and in such manner as Her Majesty in Council may think fit, and to deal with the decision appealed from in such manner as may be just.

140. Where any judgment, order, or sentence of the Supreme Court is given, made, or passed in the exercise of either original or appellate criminal jurisdiction, the party charged with the crime or offence, if he considers the judgment, order, or sentence to be erroneous in point of law, may appeal therefrom to Her Majesty in Council, provided that the Supreme Court declares the case to be a fit one for such appeal and that the appellant complies with such conditions as the Supreme Court establishes or requires, subject always to such rules as from time to time Her Majesty in Council thinks fit to make in that behalf.

XIX.—*General Provisions.*

141. Nothing in this Order shall be deemed to affect Her Majesty's prerogative of pardon.

142. Except as in this Order expressly provided, nothing in this Order shall preclude any of Her Majesty's consular officers in China *or in Japan* from performing any act not of a judicial character, that Her Majesty's consular officers there might by law, or by virtue of usage or sufferance, or otherwise, have performed if this Order had not been made.

143. Every of Her Majesty's consular officers shall, as far as there is proper opportunity, promote reconciliation and encourage and facilitate the settlement in an amicable way, and without recourse to litigation, of matters in difference between British subjects in China *or in Japan*.

144. Every signature or seal affixed to any instrument purporting to be the signature of the Judge of the Supreme Court, or of any officer or person acting under this Order, or to be the seal of any of Her Majesty's Courts in China *or in Japan*, shall, for all purposes under this Order, without any proof thereof, be presumed to be genuine, and shall be taken as genuine until the contrary is proved.

145. In every case, civil or criminal, heard in any Court, proper minutes of the proceedings shall be drawn up, and shall be signed by the Judge or officer before whom the proceedings are taken, and sealed with the seal of the Court, and shall, where assessors are present, be open for their inspection and for their signature if concurred in by them.

The minutes, with depositions of witnesses and notes, of evidence taken at the trial by the Judge or officer, shall be preserved in the public office of the Court.

146. In a civil case any Court may order such costs, or costs charges and expenses as to the Court seem reasonable, to be paid by any party to the proceedings, or out of any fund to which the proceeding relates.

147. Any Court, either of its own motion, or, in civil cases, on the application of any party to any suit or proceeding or reference, may summon as a witness any British subject in China *or Japan*,—but so that a Provincial Court shall have power so to summon British subjects in its own district only.

Any British subject, duly served with such a summons and with reasonable notice of the time and place at which his attendance is required, failing to attend accordingly and not excusing his failure to the satisfaction of the Court, shall, over and above any other liability to which he may be subject, be liable to a fine not exceeding 500 dollars, or to imprisonment for any term not exceeding one month, in the discretion of the Court.

148. In civil cases any Court may, where the circumstances appear to justify it, order that the expenses of a witness, on his

appearing to give evidence, shall be defrayed by the parties or any of them.

149. Any person appearing before a Court to give evidence in any case, civil or criminal, may be examined or give evidence on oath in the form or with the ceremony that he declares to be binding on his conscience.

150. Any British subject wilfully giving false evidence in any suit or proceeding, civil or criminal, or on any reference, shall, on conviction thereof, be deemed guilty of wilful and corrupt perjury.

151. All costs and all charges and expenses of witnesses prosecutions, punishments, and deportations, and other charges and expenses, and all fees, fines, forfeitures, and pecuniary penalties payable under this Order, may be levied by distress and seizure and sale of ships, goods, and lands ; and no bill of sale, or mortgage, or transfer of property, made with a view to security in regard to crimes or offences committed, or to be committed, shall be of any avail to defeat any provision of this Order.

152. All fees, fines, forfeitures, confiscations, and pecuniary penalties levied under this Order, except confiscations and pecuniary penalties by treaty appropriated or payable to the Government of China or to that of the Tycoon of Japan, shall be carried to the public account, and be applied in diminution of the public expenditure on account of Her Majesty's Courts in China and Japan ; but if the Government of China or that of the Tycoon of Japan declines to receive any confiscation or pecuniary penalty by treaty appropriated or payable to it, the same shall be applied as other confiscations and pecuniary penalties are applicable.

153. Whenever under this Order any person is to be taken in custody or otherwise, for trial or imprisonment, or by way of deportation, or for any other purpose, to the Supreme Court or elsewhere in China or Japan, or to Hong Kong, England, or elsewhere, the Court or other authority by this Order authorised to cause him to be so taken, may for that purpose (if necessary) cause him to be embarked on board one of Her Majesty's vessels of war, or if there is no such vessel available, then on board any British or other fit vessel, at any port or place whether within or beyond the particular jurisdiction or district of that Court or authority, and in order to such embarkment may (if necessary) cause him to be taken, in custody or otherwise, by land or by water, from any place to the port or place of embarkment.

The writ, order, or warrant of the Supreme Court for China and Japan, or of a Provincial Court in China or Japan, or of the Supreme Court of Hong Kong, or the warrant of the Governor or person administering the Government of Hong Kong (as the case may be), by virtue whereof any person is to be so taken, shall be sufficient authority to every constable, officer, or other person acting thereunder, and to the commander or master of any vessel of war, or other vessel (whether the constable, officer, or other person, or the vessel, or the commander or master thereof, is named

therein or not), to receive, detain, take, and deliver up such person, according to the writ, order, or warrant.

Where the writ, order, or warrant is executed under the immediate direction of the Court or authority issuing it, the writ, order, or warrant shall be delivered to the constable, officer, or other person acting thereunder, and a duplicate thereof shall be delivered to the commander or master of any vessel in which the person to whom the writ, order, or warrant relates, is embarked.

Where the writ, order, or warrant issues from the Supreme Court for China and Japan, and is executed by a Provincial Court in China or Japan,—and where the writ, order, or warrant issues from the Supreme Court of Hong Kong, and is executed by any of Her Majesty's Courts in China or Japan,—a copy thereof certified under the seal of the Court executing the same shall be delivered to the constable, officer, or other person acting thereunder, and to the commander or master of any vessel in which the person taken is embarked; and any such copy shall be for all purposes conclusive evidence of the Order of which it purports to be a copy.

154. Subject to the other provisions of this Order, all expenses of removal of prisoners and others from or to any place in China or Japan, or from or to Hong Kong, and the expenses of deportation and of the sending of any person to England, shall be defrayed as the expenses relating to distressed British subjects are defrayed, or in such other manner as one of Her Majesty's Principal Secretaries of State from time to time directs.

155. If any British subject wilfully obstructs by act or threat an officer of a Court in the performance of his duty,—

Or within or close to the room or place where a Court is sitting wilfully behaves in a violent, threatening, or disrespectful manner, to the disturbance of the Court, or the terror of the suitors or others resorting thereto,—

Or wilfully insults the Judge, Assistant Judge, or Law Secretary of the Supreme Court, or any consular officer, or any juror or assessor, or any clerk or officer of a Court, during his sitting or attendance in Court, or in going to or returning from Court,—

He shall be liable to be immediately apprehended by order of the Court, and to be detained until the rising of the Court, and further on due inquiry and consideration, to be punished with a fine not exceeding 25 dollars, or imprisonment for any term not exceeding seven days, at the discretion of the Court, according to the nature and circumstances of the case.

A minute shall be made and kept of every such case of punishment, recording the facts of the offence and the extent of the punishment; and in the case of a Provincial Court, a copy of such minute shall be forthwith sent to the Judge of the Supreme Court.

156. If any clerk or officer of a Court acting under pretence of the process or authority of the Court is charged with extortion, or with not duly paying any money levied, or with other misconduct, the Court may (without prejudice to any other liability or punish-

ment to which the clerk or officer would in the absence of the present provision be liable) inquire into the charge in a summary way, and for that purpose summon and enforce the attendance of all necessary persons in like manner as the attendance of witnesses and others may be enforced in a suit, and may make such order thereupon for the repayment of any money extorted or for the due payment of any money levied, and for the payment of such damages and costs, as the Court thinks just; and the Court may also, if it thinks fit, impose such fine upon the clerk or officer not exceeding 50 dollars for each offence, as seems just.

157. Any suit or proceeding shall not be commenced in any of Her Majesty's Courts in *China or Japan* or in any Court in Hong Kong against any person for anything done or omitted in pursuance or execution or intended execution of this Order, or of any regulation or rule made under it, unless notice in writing is given by the intending plaintiff or prosecutor to the intended defendant one month at least before the commencement of the suit or proceeding, nor unless it is commenced within three months next after the act or omission complained of, or in case of a continuation of damage within three months next after the doing of such damage has ceased.

The plaintiff in any such suit shall not succeed if tender of sufficient amends is made by the defendant before the commencement thereof; and if no tender is made the defendant may by leave of the Court at any time pay into Court such sum of money as he thinks fit, whereupon such proceeding and order shall be had and made in and by the Court as may be had and made on the payment of money into Court in an ordinary suit.

XX.—*Hong Kong.*

158. Where a warrant or order of arrest is issued by any of Her Majesty's Courts in *China or Japan* for the apprehension of a British subject who is charged with having committed a crime or offence within the jurisdiction of the Court issuing the warrant or order, and who is or is supposed to be in Hong Kong, and the warrant or order is produced to any of Her Majesty's Justices of the Peace in and for Hong Kong, such Justice may back the warrant or order, and the same when so backed shall be sufficient authority to the person to whom the warrant or order was originally directed, and also to any constable or other peace officer in and for Hong Kong, to apprehend the accused in Hong Kong and to carry him to and deliver him up within the jurisdiction of the Court issuing the warrant or order, according to the warrant or order.

159. The Supreme Court of Hong Kong may take cognisance of offences committed by British subjects within the peninsula of Macao and of suits originating there, when the party offending or the party sued comes or is found within the jurisdiction of that

Court; but that Court shall not have power to issue any warrant or writ to be executed or served within that peninsula.

160. Save as expressly provided by this Order, all jurisdiction, power, and authority of the Supreme Court of Hong Kong exercisable in relation to British subjects resident in or resorting to China or Japan shall, from the commencement of this Order, absolutely cease.

XXI.—*Repeals.*

161. From and immediately after the commencement of this Order, the Orders in Council and consular ordinances described in the schedule to this Order shall be repealed; but this repeal shall not affect the past operation of any such order or ordinance, or any appointment made, or thing done, or right, title, obligation, or liability acquired or accrued thereunder before the commencement of this Order.

XXII.—*Pending Proceedings.*

162. Nothing in this Order or in any rules made under it shall apply to or in any manner affect any suit or proceeding, either of a civil or of a criminal nature, pending at the commencement of this Order, either with reference to the original proceedings therein, or with reference to any appeal therein, or otherwise, subject, nevertheless, to the following provisions and qualifications:—

- (1.) All suits and proceedings, whether of a civil or of a criminal nature, instituted or taken before the commencement of this Order in the district of the Consulate of Shanghai, and pending at the commencement of this Order, are hereby transferred to the jurisdiction of the Supreme Court, and the same may be carried on and shall be tried, heard, and determined in and by the Supreme Court in like manner as nearly as may be in all respects as if the same had been instituted or taken in the district of the Consulate of Shanghai after the commencement of this Order:
- (2.) In any suit or proceeding, whether of a civil or of a criminal nature, the Court before which the same is pending at the commencement of this Order after hearing the parties, either of its own motion, or on the application of either party, or by consent, may, if it seems fit, from time to time direct that the procedure and practice prescribed by this Order, or by any rule made under it, be followed in any respect.

163. Nothing in this Order shall take away any right of appeal in any suit of a civil nature pending at the commencement of this Order,—or interfere with the bringing or prosecution of any appeal in any such suit that might have been brought or prosecuted if this Order had not been made,—or take away or abridge any jurisdiction, power, or authority of any Court, Judge, officer, or

person in relation to any appeal in any such suit, or to the execution or enforcement of any judgment, decree, or order made before or after the commencement of this Order, in or respecting any appeal in any such suit ;—and, notwithstanding this Order, any appeal in any such suit, shall lie and may be brought and prosecuted, and any such judgment, decree, or order may be made, executed, and enforced in like manner and with the like effect and consequences in all respects as if this Order had not been made, subject only to this qualification,—that in case of any appeal which, if this Order had not been made, would have lain to or been heard and determined by the Chief Superintendent, *or to or by Her Majesty's Consul-General in Japan*, the same shall lie to and be heard and determined by the Supreme Court in a like course of procedure as nearly as may be in all respects as if this Order had not been made.

XXIII.—*Commencement and Publication of Order.*

164. This Order shall commence and have effect as follows :—

- (1.) As to the making of any warrant or appointment under this Order,—immediately from and after the making of this Order :
- (2.) As to the framing of rules by the Judge of the Supreme Court and the approval thereof by one of Her Majesty's Principal Secretaries of State,—immediately from and after the first appointment under this Order of a Judge of the Supreme Court :
- (3.) As to all other matters and provisions comprised and contained in this Order,—immediately from and after the expiration of one month after this Order is first exhibited in the public office of Her Majesty's Consul at Shanghai ; for which purpose Her Majesty's Consul at Shanghai is hereby required forthwith, on receipt by him of a copy of this Order, to affix and exhibit the same conspicuously in his public office, and he is also hereby required to keep the same so affixed and exhibited during one month from the first exhibition thereof ; and of the time of such first exhibition notice shall, as soon thereafter as practicable, be published in every consular district in *China and Japan*, in such manner as Her Majesty's Ministers there respectively direct ;

and, notwithstanding anything in this Order, the time of the expiration of the said month shall be deemed to be the time of the commencement of this Order.

165. A copy of this Order shall be kept exhibited conspicuously in each Court and Consulate in *China and in Japan*.

Printed copies shall be provided and sold at such reasonable price as Her Majesty's Minister in China directs.

And the Right Honourable the Earl Russell, and the Right Honourable Edward Cardwell, two of Her Majesty's Principal

Secretaries of State, and the Lords Commissioners of the Admiralty, are to give the necessary directions herein as to them may respectively appertain.

(Signed) *Edmund Harrison.*

The Schedule to which the foregoing Order refers.

Orders in Council repealed.

CHINA.	JAPAN.
9 December 1833 * (two Orders).	23 January 1860.
4 January 1843. †	4 February 1861. ¶ ¶
24 February 1843. ‡	12 September 1863. * * *
2 October 1843. §	7 January 1864. †††
17 April 1844.	
13 June 1853. ¶	
2 February 1857. * *	
3 March 1859. ††	
12 September 1863. ††	
9 July 1864. §§	

Consular Ordinances repealed.

- No. 1. 19 January 1854. Deserters. †††
- No. 2. 31 March 1854. Lunatics; Coroner. §§§
- No. 1. 17 January 1855. Neutrality. ||||
- No. 1. 5 March 1856. Insolvents. ¶ ¶ ¶
- No. 2. 29 May 1856. Removal of prisoners, &c. * * * *

THE CHINA and Japan MARITIME ORDER IN COUNCIL, 1874,
DATED AUGUST 6, 1874.

[This Order in Council is printed under the title "Merchant Shipping."]

- * Published in "London Gazette," December 13, 1833, pp. 2283-84.
- † Published in "London Gazette," January 6, 1843, p. 37.
- ‡ Published in "London Gazette," February 28, 1843, p. 685.
- § Published in "London Gazette," October 3, 1843, p. 3215.
- || Published in "London Gazette," May 7, 1844, p. 1557.
- ¶ Published in "London Gazette," August 23, 1853, p. 2306.
- ¶ Published in "London Gazette," February 3, 1857, p. 380.
- ||| Published in "London Gazette," March 4, 1859, p. 988.
- ||| Published in "London Gazette," September 15, 1860, p. 4478.
- ||| Published in "London Gazette," July 12, 1864, p. 3471.
- ¶ Published in "London Gazette," February 10, 1860, p. 468.
- ¶ Published in "London Gazette," February 6, 1861, p. 441.
- ¶ Published in "London Gazette," September 15, 1863, p. 4478.
- ¶ Published in "London Gazette," January 8, 1864, p. 87.
- ¶ Printed in "Hertslet's State Papers," Vol. 47, p. 501.
- ¶ Printed in "Hertslet's State Papers," Vol. 47, p. 503.
- ¶ Printed in "Hertslet's State Papers," Vol. 47, p. 508.
- ¶ Printed in "Hertslet's State Papers," Vol. 47, p. 369.
- ¶ Printed in "Hertslet's State Papers," Vol. 47, p. 602.

ORDER IN COUNCIL AS TO BRITISH JURISDICTION IN CHINA
and Japan.*

At the Court at Windsor, the 30th day of April, 1877.

PRESENT :

The Queen's Most Excellent Majesty in Council.

Whereas by the China and Japan Order in Council, 1865,† Her Majesty the Queen was pleased, by and with the advice of Her Privy Council, to make provision for the exercise of Her Majesty's power and jurisdiction over Her Majesty's subjects resident in or resorting to China or Japan :

And whereas in China and Japan additional ports may be from time to time opened to foreign trade, and it is expedient to provide for the exercise at those ports of Her Majesty's power and jurisdiction before the establishment there of commissioned consular officers :

Now, therefore, Her Majesty, by virtue of the powers in this behalf by the Foreign Jurisdiction Acts, 1843 to 1875,‡ and by the Act of the session of the sixth and seventh years of Her Majesty's reign, chapter eighty,§ " for the better government of Her Majesty's "subjects resorting to China," or otherwise, in Her vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

1. The provisions of Article 25 of the China and Japan Order in Council, 1865,† and all provisions of that Order consequent thereon or relative thereto, shall extend and apply to every person (not holding a consular commission from Her Majesty) from time to time appointed by Her Majesty's Minister in China or Japan to be Acting Consul, and to be resident at a port in China or Japan, which is for the time being open to foreign trade, and at which no commissioned consular officer of Her Majesty is resident.

2. For the purposes and within the meaning of the said Order, every person so appointed as an Acting Consul shall be deemed a consular officer, and the district for which he is appointed to act shall be deemed a consular district, and the Court held by him shall be deemed a Provincial Court.

3. Words in this Order have the same meaning as in the said Order.

C. L. Peel.

* See first footnote, p. 214 above.

† Printed at p. 214 above.

‡ 6 & 7 Vict. c. 94 ; 29 & 30 Vict. c. 87 ; 38 & 39 Vict. c. 85 ; now repealed and consolidated by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

§ Repealed by the Foreign Jurisdiction Act, 1878 (41 & 42 Vict. c. 67) ; now repealed and consolidated with other Acts by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

ORDER IN COUNCIL AS TO BRITISH JURISDICTION IN CHINA
and Japan.*

At the Court at Balmoral, the 23d day of October, 1877.

PRESENT :

The Queen's Most Excellent Majesty in Council.

Whereas by an Act of Parliament passed in the 7th year of Her Majesty's reign,[†] intituled "An Act for the better government "of Her Majesty's subjects resorting to China," it is (amongst other things) enacted that it shall be lawful for Her Majesty, by any Order or Orders made with the advice of Her Majesty's Privy Council, to ordain, for the government of Her Majesty's subjects being within the dominions of the Emperor of China, or being within any ship or vessel at a distance of not more than 100 miles from the coast of China, any law or ordinance which to Her Majesty may seem meet, as fully and effectually as any such law or ordinance could be made by Her Majesty in Council for the government of Her Majesty's subjects being within the Island of Hong Kong :

And whereas Her Majesty was pleased by and with the advice of Her Privy Council, by Order in Council of the 9th day of March 1865,[‡] to ordain (amongst other things) that all Her Majesty's jurisdiction exerciseable in China or in Japan for the judicial hearing and determination of such matters as are by the fourth section of the said Order specified should be exercised according to the provisions of the said Order and not otherwise, and that save as expressly provided by the said Order, all jurisdiction, power, and authority of the Supreme Court of Hong Kong exerciseable in relation to British subjects resident in or resorting to China or Japan should absolutely cease :

And whereas by the Foreign Jurisdiction Amendment Act, 1866,[§] it was enacted that it should be lawful for Her Majesty in Council by Order in Council under the Foreign Jurisdiction Acts to confer upon any Court in Her Majesty's possessions out of the United Kingdom any jurisdiction which Her Majesty in Council might lawfully by any such Order confer on any Court in any country or place out of Her Majesty's dominions within which Her Majesty has power or jurisdiction :

And whereas Her Majesty was pleased by and with the advice of Her Privy Council by another Order in Council of the 28th day of March, 1868,^{||} to ordain (amongst other things) that in addition to the powers then vested in the Supreme Court of Hong Kong the said Supreme Court might have jurisdiction over and take cognisance of all crimes and offences committed by British subjects at any place on land being within six miles of any part of

* See first footnote, p. 214 above.

[†] 6 & 7 Vict. c. 80, repealed by the Foreign Jurisdiction Act, 1878 (41 & 42 Vict. c. 67), which is now repealed and consolidated with other Acts by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

[‡] Printed at p. 214 above.

[§] 29 & 30 Vict. c. 87 ; now repealed and consolidated with other Acts by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

^{||} Published in "London Gazette," April 3rd, 1868, p. 2034.

the Colony of Hong Kong, and not being on the mainland of China, and of and over all disputes and differences between British subjects being in any such place within such limit as aforesaid :

And whereas it has seemed to Her Majesty, by and with the advice of Her Privy Council, to be expedient to revoke the said last-mentioned Order in Council and to extend the jurisdiction of the Supreme Court of Hong Kong in respect to matters arising in the neighbourhood of the Colony of Hong Kong :

Now therefore, Her Majesty by virtue of the powers in this behalf by the said recited Act, or otherwise vested in Her, is pleased by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

1. In addition to the powers now vested in the said Supreme Court of Hong Kong, the said Supreme Court may have jurisdiction over and take cognisance of all crimes and offences committed by British subjects at any place on land, being within ten miles of any part of the Colony of Hong Kong, and of and over all disputes and differences between British subjects being in any such place within such limit as aforesaid, and the said Court shall and may deal with, try, hear, and determine all such cases as fully and effectually as if such crimes or offences had been committed or such disputes or differences had arisen by or between British subjects within the said Colony of Hong Kong.
2. The said Order in Council of the 28th day of March, 1868,* is hereby revoked except for the purpose of completing any proceedings criminal or civil which may have been commenced thereunder before this Order is published in the said Colony of Hong Kong and any proceedings so commenced may be completed and any sentences and judgments given therein may be executed as fully and effectually as if this Order had not been made.
3. The jurisdiction hereby conferred upon the Supreme Court of Hong Kong shall be in addition to and concurrent with any power of jurisdiction now possessed by the Supreme Court for China or Japan or any Provincial Court under the said Order in Council of the 9th of March, 1865,† to deal with, try, hear, and determine such cases as are herein mentioned, and nothing in this Order contained shall affect the power of the said Supreme Court for China or Japan or of any Provincial Court under the said last-mentioned Order in Council to deal with, hear, try, and determine the said cases.

And the Right Honourable, the Earl of Carnarvon, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

* Published in "London Gazette," April 3rd, 1868, p. 2034.

† Printed at p. 214 above.

THE CHINA and Japan* ORDER IN COUNCIL, 1878.

At the Court at Osborne House, Isle of Wight, the 14th day of August, 1878.

PRESENT :

The Queen's Most Excellent Majesty in Council.

Whereas Her Majesty the Queen has power and jurisdiction over Her Majesty's subjects resident in or resorting to China and Japan :

Now, therefore, Her Majesty, by virtue of the powers in this behalf by the Foreign Jurisdiction Acts, 1843 to 1875,† and by the Act of Parliament of the session of the sixth and seventh years of Her Majesty's reign (chapter 80),‡ “for the better government “of Her Majesty's subjects resorting to China,” or otherwise, in Her vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :

Preliminary.

1. This Order may be cited as “The China and Japan Order in Council, 1878.”

2. This Order shall commence and have effect as follows :

- (a.) As to the making of any warrant or appointment under this Order, immediately from and after the making of this Order.
- (b.) As to all other matters and provisions comprised and contained in this Order, immediately from and after the expiration of one month after this Order is first exhibited in the public office of Her Majesty's Consul-General for the district of the Consulate of Shanghai ; for which purpose Her Majesty's Consul-General or other principal consular officer for the time being for that district is hereby required forthwith, on receipt by him from Her Majesty's Minister in China of a copy of this Order, with instructions in this behalf, to affix and exhibit this Order conspicuously in that public office, and to keep the same so affixed and exhibited during one month thereafter ; of the time of which first exhibition notice shall be published as soon thereafter as practicable in each consular district in China and in Japan, in such manner as Her Majesty's Ministers there respectively direct ; and the time of the expiration of that month shall be deemed the time of the commencement of this Order.

* See first footnote, p. 214 above.

† 6 & 7 Vict. c. 94 ; 29 & 30 Vict. c. 87 ; 38 & 39 Vict. c. 85 ; now repealed and consolidated with other Acts by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

‡ Repealed by the Foreign Jurisdiction Act, 1878 (41 & 42 Vict. c. 67), which is now repealed and consolidated with other Acts by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

3.—(1) Articles 9 to 22, both inclusive, of the *China and Japan Order in Council, 1865*,* are hereby revoked.

(2) *Articles 36 and 37 of that Order are hereby revoked as regards Japan only.*

(3) In this Order “the Secretary of State” means one of Her Majesty’s Principal Secretaries of State.

(4) Subject to the foregoing provisions, this Order shall be read as one with the *China and Japan Order in Council, 1865*.*

(5) A copy of this Order shall be kept exhibited conspicuously in each Court and Consulate in *China and in Japan*.

(6) Printed copies thereof shall be provided and shall be sold at such reasonable price as Her Majesty’s Ministers there respectively direct.

Supreme Court for China and Japan.

4.—(1). There shall be a Chief Justice and an Assistant Judge of the Supreme Court for *China and Japan*.

(2.) [*Revoked and other provision as to the Registrar made by the Order of 1898, printed at p. 272 below.*]

(3.) The Assistant Judge shall hear and determine such causes and matters, civil and criminal, and transact such other part of the business of the Supreme Court as the Chief Justice from time to time by general order, or otherwise, directs; and for that purpose the Assistant Judge shall have all the like jurisdiction, power, and authority as the Chief Justice.

(4.) Any party to a suit or proceeding wherein any matter or question is heard and determined by the Assistant Judge shall be entitled, as of course, to a re-hearing before the Chief Justice, sitting with the Assistant Judge, or, in the unavoidable absence of the Assistant Judge, alone.

(5.) If, on any such re-hearing, there is a difference of opinion between the Chief Justice and the Assistant Judge, the opinion of the Chief Justice shall prevail.

(6.) Throughout the *China and Japan Order in Council, 1865*,* and the Rules made thereunder, the Chief Justice of the Supreme Court shall, as regards China, be deemed to be therein substituted for the Judge of the Supreme Court.

(7.) There shall be attached to the Supreme Court a chief clerk, and so many officers and clerks as the Secretary of State from time to time thinks fit.

Court for Japan.†

5.—(1.) *There shall be in and for Japan a Court styled Her Britannic Majesty’s Court for Japan.*

(2.) *The Court for Japan shall have a seal, bearing its style and such device as the Secretary of State from time to time directs.*

(3.) *The Court for Japan shall hold its ordinary sittings at*

* See p. 217 above.

† Articles 5–8 inclusive have ceased to apply to Japan, but by the provisions of Article 4 (2) of the Order of 1884, and of Article 2 of the Order of 1900, both printed below, they are made applicable to Corea, with the substitution of Corea for Japan.

Kanagawa, or, on emergency, at any other place within the district of the Consulate of Kanagawa, but may at any time transfer its ordinary sittings to any place in Japan approved by the Secretary of State, or by Her Majesty's Minister in Japan.

(4.) *There shall be a Judge and an Assistant Judge of the Court for Japan.*

(5.) *The Assistant Judge shall hear and determine such causes and matters, civil and criminal, and transact such other part of the business of the Court, as the Judge from time to time by general order, or otherwise, directs; and for that purpose the Assistant Judge shall have all the like jurisdiction, power, and authority as the Judge.*

(6.) *Any party to a suit or proceeding wherein any matter or question is heard and determined by the Assistant Judge shall be entitled, as of course, to a re-hearing before the Judge, sitting with the Assistant Judge, or, in the unavoidable absence of the Assistant Judge, alone.*

(7.) *If, on any such re-hearing, there is a difference of opinion between the Judge and the Assistant Judge, the opinion of the Judge shall prevail.*

(8.) *In Japan, persons accused of crimes which in England are capital shall be tried by the Judge of the Court for Japan, with a jury, and not otherwise.*

(9.) *There shall be attached to the Court for Japan a chief clerk, and so many officers and clerks as the Secretary of State from time to time thinks fit.*

Jurisdiction in Japan.

6.—(1.) *Her Majesty's Consul for the district of the Consulate of Kanagawa shall cease to hold and form a Provincial Court.*

(2.) *Unless and until the Secretary of State otherwise directs, Her Majesty's Consul for the time being for the district of the Consulate of Kanagawa shall be the Assistant Judge of the Court for Japan.*

(3.) *All Her Majesty's jurisdiction, civil and criminal, exercisable in Japan shall, for and within the district of the Consulate of Kanagawa, be vested in the Court for Japan as its ordinary original jurisdiction.*

(4.) *All Her Majesty's jurisdiction, civil and criminal, exercisable in Japan beyond the district of the Consulate of Kanagawa, and not under this Order vested in the Court for Japan, shall, to the extent and in the manner provided by the China and Japan Order in Council, 1865,* as modified by this Order, be vested in the Provincial Courts in Japan, each for and within its own district.*

(5.) *The Court for Japan shall have, in all matters, civil and criminal, an extraordinary original jurisdiction throughout Japan, concurrent with the jurisdiction of the several Provincial Courts in Japan, the same to be exercised subject and according to the provisions of the China and Japan Order in Council, 1865,* as modified by this Order.*

* Printed at p. 214 above.

7.—(1.) *Subject to the provisions of this Order, the provisions of the China and Japan Order in Council, 1865,* and the Rules in force in the Supreme Court and other Courts in China and Japan made under that Order, shall extend and apply to the Court for Japan, as if the same were a Court (not a Provincial Court) established under that Order.*

(2.) *For the purpose of the application thereof to the Court of Japan, in Articles 23, 24, 38, 39, 41, 42, 43, 47, 54 to 57, 59, 61, 62, 67, 68, 69, 72, 74, 77 to 80, 83, 93, 99, 102, 105, 108 to 111, 117, 119, 120 to 126, 144, 153, 155, all inclusive, of that Order, and throughout those Rules, there shall, as regards Japan, be deemed to be substituted Japan for China or for China and Japan, Kanagawa for Shanghai, the Court for Japan for the Supreme Court for China and Japan, and the Judge and Assistant Judge of the Court for Japan for the Judge and Assistant Judge of the Supreme Court; but not so as to affect those articles or Rules as regards operation thereof in and for China.*

8.—(1.) *Article 119 of the China and Japan Order in Council, 1865,* relative to appeals in civil cases to the Supreme Court for China and Japan, shall extend and apply to appeals from decisions of the Court for Japan, as if the same were a Provincial Court within that article; and that article and the Rules therein referred to, shall accordingly, notwithstanding anything in this Order, apply to appeals from the Court for Japan to the Supreme Court for China and Japan; but the last-mentioned appeals shall not be heard except by the Chief Justice of the Supreme Court, sitting with the Assistant Judge of that Court, or, in the unavoidable absence of the Assistant Judge, alone.*

(2.) *If, on any such appeal, there is a difference of opinion between the Chief Justice and the Assistant Judge, the opinion of the Chief Justice shall prevail.*

(3.) *Articles 120 to 126, both inclusive, of the China and Japan Order in Council, 1865,* relative to appeals to the Supreme Court for China and Japan in criminal cases, shall extend and apply to appeals to that Court in criminal cases from decisions of the Court for Japan, both in cases originally tried in the Court for Japan and in cases brought by virtue of this Order before that Court, under those articles, by way of appeal from any Court or officer in Japan; and, for the purposes of this article, the Court for Japan shall, in cases so brought before it by way of appeal, be deemed to be the Court trying the case.*

Judges in China and Japan.

9.—(1.) *The Chief Justice and Assistant Judge of the Supreme Court and the Judge and Assistant Judge of the Court for Japan shall each be appointed by Her Majesty by warrant under Her Royal Sign Manual, subject and according to Article 23 of the China and Japan Order in Council, 1865.**

* Printed at p. 214 above.

(2.) The Chief Justice *and the Judge* shall each be a subject of Her Majesty by birth or naturalisation, who, at the time of his appointment, is a member of the Bar of England, Scotland, or Ireland, of not less than seven years' standing.

10.—(1.) In case of the death or illness, or the absence or intended absence from the district of the Consulate of Shanghai, of the Chief Justice or of the Assistant Judge of the Supreme Court, Her Majesty's Minister in China may appoint a fit person to be the Acting Chief Justice or to be the Acting Assistant Judge (as the case may require); but, unless in any case the Secretary of State otherwise directs, the Assistant Judge, if present and able to act, shall always be appointed to be Acting Chief Justice.

(2.) *In case of the death or illness, or the absence or intended absence from the district of the Consulate of Kanagawa, of the Judge or of the Assistant Judge of the Court for Japan, Her Majesty's Minister in Japan may appoint a fit person to be the Acting Judge or to be the Acting Assistant Judge (as the case may require).*

Vice-Admiralty Jurisdiction.

11. Any proceeding taken in China or Japan against one of Her Majesty's vessels, or the officer commanding the same, as such, in respect of any claim cognisable in a Court of Vice-Admiralty, shall be taken only in the Supreme Court or in the Court for Japan, under the Vice-Admiralty jurisdiction thereof respectively.

Pending Proceedings.

12. *Nothing in this Order shall affect any suit or proceedings, civil or criminal, pending at the commencement of this Order, with reference either to the original proceedings therein, or to any appeal therein, or otherwise; save that all suits and proceedings, civil or criminal, instituted or taken in the district of the Consulate of Kanagawa before and pending at the commencement of this Order are hereby transferred to the jurisdiction of the Court for Japan; and the same may be carried on and shall be tried, heard, and determined in and by the Court for Japan, as nearly as may be, as if the same had been instituted or taken in the district of the Consulate of Kanagawa after the commencement of this Order.*

And the Most Honourable the Marquess of Salisbury, and the Right Honourable Sir Michael Edward Hicks-Beach, Baronet, two of Her Majesty's Principal Secretaries of State, and the Lords Commissioners of the Treasury, and the Lords Commissioners of the Admiralty are to give the necessary directions herein as to them may respectively appertain.

C. L. Peel.

THE CHINA *and Japan** ORDER IN COUNCIL, 1881, AS AMENDED BY THE CHINA, *Japan*,* AND COREA ORDER IN COUNCIL, 1886 (SUPPLEMENTAL),† DATED AUGUST 3, 1886.

At the Court at Balmoral, the 25th day of October, 1881.

PRESENT :

The Queen's Most Excellent Majesty in Council.

Whereas Her Majesty the Queen has power and jurisdiction in relation to Her Majesty's subjects and others in the dominions of the Emperor of China *and the dominions of the Mikado of Japan* :

Now, therefore, Her Majesty, by virtue and in exercise of the powers in this behalf by the Foreign Jurisdiction Acts, 1843 to 1878,‡ or otherwise, in Her vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :

Preliminary.

1. This Order may be cited as the China *and Japan* Order in Council, 1881.

2. This Order shall, except as otherwise expressed, commence and take effect from and immediately after the thirty-first day of December, 1881, which time is in this Order referred to as the commencement of this Order.

3. In this Order—

"China" means the dominions of the Emperor of China.

"Japan" means the dominions of the Mikado of Japan.

"Minister" means superior diplomatic representative whether Ambassador, Envoy, Minister Plenipotentiary, or Chargé d' Affaires.

"Consular Officer" includes every officer in Her Majesty's Consular Service, whether Consul-General, Consul, Vice-Consul, or Consular Agent, or person authorised to act in any such capacity in China *or in Japan*.

"British subject" means a subject of Her Majesty whether by birth or by naturalisation.

"Foreigner" means a subject of the Emperor of China *or of the Mikado of Japan*, or a subject or citizen of any other State in amity with Her Majesty.

"Treaty" includes convention, and any agreement, regulations, rules, articles, tariff, or other instrument annexed to a treaty, or agreed on in pursuance of any stipulation thereof.

"Month" means calendar month.

* See first footnote, p. 214 above.

† This amending order is printed at length in Statutory Rules and Orders Revised (1st Edition), Vol. 3, p. 395.

‡ 6 & 7 Vict. c. 94 ; 29 & 30 Vict. c. 87 ; 38 & 39 Vict. c. 85 ; 41 & 42 Vict. c. 67 ; now repealed and consolidated by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

Words importing the plural or the singular may be construed as referring to one person or thing, or more than one person or thing, and words importing the masculine as referring to females (as the case may require).

Repeal.

4. Subject to the provisions of this Order, Articles Eighty-five to Ninety-one inclusive, of the *China and Japan* Order in Council, 1865,* authorising the making of regulations for the purposes and by the authority therein mentioned, and the regulations made thereunder, dated respectively 11th July, 1866, and 16th November, 1866, relating to mortgages, bills of sale, and proceedings against partnerships or partners or agents thereof, and Rule 252 of the Rules of the Supreme Court and other Courts in *China and Japan* of 4th May, 1865, relating to proceedings by or against partnerships, and Articles One hundred and seventeen and One hundred and eighteen of the *China and Japan* Order in Council, 1865,* relating to foreigners and foreign tribunals, are hereby repealed, as from the commencement of this Order; but this repeal does not affect any right, title, obligation, or liability acquired or accrued before the commencement of this Order.

Confirmation of Regulations not Repealed.

5. Such regulations as are described in the schedule to this Order; being regulations made or expressed or intended to be made under or in execution of the powers conferred by Articles Eighty-five to Ninety-one of the *China and Japan* Order in Council, 1865,* and all other regulations made or expressed or intended to be so made and having been approved, or, in case of urgency, not disapproved, under that Order, before the commencement of this Order, except the regulations expressed to be repealed by this Order, are hereby confirmed, as from the passing of this Order, and the same, as far as they are now in force, shall be in force, and shall be deemed to have always been of the like validity and effect as if they had been originally made by Order in Council.

Authority for further Regulations.†

6. Her Majesty's Minister in China may from time to time, subject and according to the provisions of this Order, make such regulations as to him seem fit for the peace, order, and good government of British subjects, resident in or resorting to China.

7. The power aforesaid extends to the making of regulations for securing observance of the stipulations of treaties between Her Majesty, Her heirs and successors, and the Emperor of China,

* Printed at p. 214 above.

† Arts. 6-20, applied to Corea by The *China, Japan, and Corea* Order in Council, 1884 (Supplemental), printed at p. 271 below.

and for maintaining friendly relations between British subjects and Chinese subjects and authorities.

8. Her Majesty's Minister in China may, as he thinks fit, make any regulation under this Order extend either throughout China, or to some one or more only of the consular districts in China.

9. Her Majesty's Minister in China, in the exercise of the powers aforesaid, may, if he thinks fit, join with the Ministers of any foreign Powers in amity with Her Majesty in making or adopting regulations with like objects as the regulations described in the schedule to this Order, commonly called the Shanghai Land Regulations, or any other regulations for the municipal government of any foreign concession or settlement in China; and, as regards British subjects, joint regulations so made shall be as valid and binding as if they related to British subjects only.

10. Her Majesty's Minister in China may, by any regulation made under this Order, repeal or alter any regulation made under the *China and Japan* Order in Council, 1865,* or under any prior like authority.

11.—(a.) Regulations made under this Order shall not have effect unless and until they are approved by Her Majesty the Queen, that approval being signified through one of Her Majesty's Principal Secretaries of State,—save that, in case of urgency declared in any such regulations, the same shall take effect before that approval, and shall continue to have effect unless and until they are disapproved by Her Majesty the Queen, that disapproval being signified through one of Her Majesty's Principal Secretaries of State, and until notification of that disapproval has been received and published by Her Majesty's Minister in China.

(b.) That approval, where given, shall be conclusive, and the validity or regularity of any regulations so approved shall not be called in question in any legal proceeding whatever.

12. Any regulations made under this Order may, if Her Majesty's Minister in China thinks fit, impose penalties for offences against the same.

13. Penalties so imposed shall not exceed the following, namely, —for any offence imprisonment for three months, with or without hard labour, and with or without a fine of 500 dollars, or a fine of 500 dollars, without imprisonment—with or without a further fine, for a continuing offence, of 25 dollars for each day during which the offence continues after the original fine is incurred.

14. Regulations imposing penalties shall be so framed as to allow in every case of part only of the highest penalty being inflicted.

15. All regulations made under this Order, whether imposing penalties or not, shall be printed, and a printed copy thereof shall

* Printed at p. 214 above.

be affixed, and be at all times kept exhibited conspicuously in the public office of each Consulate in China.

16. Printed copies of the regulations shall be kept on sale at such reasonable price as Her Majesty's Minister in China from time to time directs.

17. Where a regulation imposes a penalty, the same shall not be enforceable in any consular district until a printed copy of the regulation has been affixed in the public office of the Consulate for that district, and has been kept exhibited conspicuously there during one month.

18. A charge of an offence against a regulation made under this Order, imposing a penalty, shall be inquired of, heard, and determined as an ordinary criminal charge under the *China and Japan Order in Council, 1865*,* except that (notwithstanding anything in that Order) where the regulation is one for securing observance of the stipulations of a treaty, the charge shall be heard and determined in a summary way, and (where the proceeding is before a Provincial Court) without assessors.

19. A printed copy of a regulation, purporting to be made under this Order and to be certified under the hand of Her Majesty's Minister in China, or under the hand and consular seal of one of Her Majesty's consular officers in China, shall be conclusive evidence of the due making of the regulation, and of its contents.

20.† The foregoing provisions authorising regulations for China are hereby extended to Corea, with the substitution of Corea for China, and of the King of Corea for the Emperor of China, and of Her Majesty's Minister in Corea for Her Majesty's Minister in China, and of Her Majesty's consular officers in Corea for Her Majesty's consular officers in China.

Prison Regulations.

21. The respective powers aforesaid extend to the making of regulations for the governance, visitation, care, and superintendence of prisons in China or in Japan, and for the infliction of corporal or other punishment on prisoners committing offences against the rules or discipline of a prison; but the provisions of this Order respecting penalties, and respecting the printing, affixing, exhibiting, and sale of regulations, and the mode of trial of charges of offences against regulations, do not apply to regulations respecting prisons and offences of prisoners.

Mortgages.

22. A deed or other instrument of mortgage, legal or equitable, of lands or houses in China or in Japan, executed by a British

* Printed at p. 214 above.

† This Article is printed as amended in its application to Corea by the China, Japan, and Corea Order in Council, 1884 (Supplemental). The original Article applying to Japan was superseded by the Order of October, 1899.

subject, may be registered at any time after its execution at the Consulate of the consular district wherein the property mortgaged is situate.

23. Registration is made as follows: The original and a copy of the deed or other instrument of mortgage, and an affidavit verifying the execution and place of execution thereof, and verifying the copy, are brought into the Consulate; and the copy and affidavit are left there.

24. If a deed or other instrument of mortgage is not registered at the Consulate aforesaid within the respective time following (namely):—

- (i.) Within fourteen days after its execution, where it is executed in the consular district wherein the property mortgaged is situate:
- (ii.) Within two months after its execution, where it is executed in *China or Japan*, elsewhere than in that consular district, or in Hong Kong:
- (iii.) Within six months after its execution, where it is executed elsewhere than in *China, Japan*, or Hong Kong:

then, and in every such case, the mortgage debt secured by the deed or other instrument and the interest thereon shall not have priority over judgment or simple contract debts contracted before the registration of that deed or other instrument.

25. Registered deeds or other instruments of mortgage, legal or equitable, of the same lands or houses have, as among themselves, priority in order of registration.

26.—(a.) The provisions of this Order do not apply to a deed or other instrument of mortgage executed before the commencement of this Order.

(b.) As regards a deed or other instrument of mortgage executed before the commencement of this Order, the regulations repealed by this Order shall, notwithstanding that repeal, be in force, and shall be deemed to have always been of the like validity and effect as if they had originally been made by Order in Council.

27. The power conferred on the Chief Justice of the Supreme Court for *China and Japan* by Article 127 of the *China and Japan* Order in Council, 1865,* of framing rules from time to time, is hereby extended to the framing of rules for prescribing and regulating the making and keeping of indexes, and of a general index, to the register of mortgages, and searches in those indexes, and other particulars connected with the making, keeping, and using of those registers and indexes, and for authorising and regulating the unregistering of any deed or other instrument of mortgage, or the registering of any release or satisfaction in respect thereof.

* Printed at p. 214 above.

Bills of Sale.

28. The provisions of this Order relating to bills of sale—

- (i.) apply only to such bills of sale executed by British subjects as are intended to affect chattels in *China or in Japan* ;
- (ii.) do not apply to bills of sale given by sheriffs or others under or in execution of process authorising seizure of chattels.

29.—(a.) Every bill of sale must conform with the following rules (namely) :—

- (1.) It must state truly the name, description, and address of the grantor.
 - (2.) It must state truly the consideration for which it is granted.
 - (3.) It must have annexed thereto or written thereunder an inventory of the chattels intended to be comprised therein.
 - (4.) Any defeasance, condition, or declaration of trust affecting the bill not contained in the body of the bill must be written on the same paper as the bill.
 - (5.) The execution of the bill must be attested by a credible witness, with his address and description.
- (b.) Otherwise, the bill is void in *China and in Japan* to the extent following, but not further (that is to say) :—
- (i.) In the case of failure to conform with the rule respecting an inventory as far as regards chattels omitted from the inventory ; and
 - (ii.) In any other case, wholly.
- (c.) The inventory, and any defeasance, condition, or declaration as aforesaid, respectively, is for all purposes deemed part of the bill.

30. A bill of sale conforming, or appearing to conform, with the foregoing rules, may be registered, if it is intended to affect chattels in *China*, at the Supreme Court ; and if it is intended to affect chattels in *Japan*, at the Court for *Japan* ; or in either case at the Consulate of the consular district wherein the chattels are ; within the respective time following, and not afterwards (namely) :—

- (i.) Within fourteen days after its execution, where it is executed in the consular district wherein the chattels are :
- (ii.) Within two months after its execution, where it is executed in *China or in Japan*, elsewhere than in that consular district, or in *Hong Kong* ;
- (iii.) Within six months after its execution, where it is executed elsewhere than in *China, Japan*, or *Hong Kong*.

31. Registration is made as follows : The original and a copy of the bill of sale, and an affidavit verifying the execution, and the time and place of execution, and the attestation thereof, and

verifying the copy, are brought into the proper office of the Court or the Consulate ; and the copy and affidavit are left there.

32. If a bill of sale is not registered at a place and within the time by this Order appointed and allowed for registration thereof, it is, from and after the expiration of that time, void in China or in Japan, according as that place is in China or in Japan, to the extent following, but not further (that is to say) :—

- (i.) As against trustees or assignees of the estate of the grantor, in or under bankruptcy, liquidation, or assignment for benefit of creditors ; and
- (ii.) As against all sheriffs and others seizing chattels under process of any Court, and any person on whose behalf the seizure is made ; but only
- (iii.) As regards the property in, or right to, the possession of such chattels comprised in the bill as, at or after the filing of the petition for bankruptcy or liquidation, or the execution of the assignment, or the seizure, are in the grantor's possession or apparent possession.

33. Registered bills of sale affecting the same chattels have as among themselves priority in order of registration.

34. Chattels comprised in a registered bill of sale are not in the possession, order, or disposition of the grantor within the law of bankruptcy.

35. If in any case there is an unregistered bill of sale, and within or on the expiration of the time by this Order allowed for registration thereof, a subsequent bill of sale is granted affecting the same or some of the same chattels, for the same or part of the same debt, then the subsequent bill is, to the extent to which it comprises the same chattels and is for the same debt, absolutely void, unless the Supreme Court for China and Japan, or the Court for Japan, as the case may require, is satisfied that the subsequent bill is granted in good faith for the purpose of correcting some material error in the prior bill, and not for the purpose of unlawfully evading the operation of this Order.

36. The registration of a bill of sale must be renewed once at least every five years.

37. Renewal of registration is made as follows : An affidavit stating the date of and parties to the bill of sale, and the date of the original registration, and of the last renewal, and that the bill is still a subsisting security, is brought in to the proper office of the Court or the Consulate of original registration, and is left there.

38. If the registration of a bill of sale is not so renewed in any period of five years, then on and from the expiration of that period the bill is deemed to be unregistered.

39. The provisions of this Order relating to renewal apply to bills of sale registered under the regulations repealed by this Order.

40. A transfer or assignment of a registered bill of sale need not be registered; and renewal of registration is not necessary by reason only of such a transfer or assignment.

41. Where the time for registration or renewal of registration of a bill of sale expires on a Sunday, or other day on which the office for registration is closed, the registration or renewal is valid if made on the first subsequent day on which the office is open.

42. If in any case the Supreme Court for China and Japan, or the Court for Japan, as the case may require, is satisfied that failure to register or to renew the registration of a bill of sale in due time, or any omission or misstatement connected with registration or renewal, was accidental or inadvertent, the Court may, if it thinks fit, order the failure, omission, or misstatement to be rectified in such manner and on such terms, if any, respecting security, notice by advertisement or otherwise, or any other matter as the Court thinks fit.

43.—(a.) The provisions of this Order, except as regard renewal of registration, do not apply to a bill of sale executed before the commencement of this Order.

(b.) As regards a bill of sale executed before the commencement of this Order, the regulations repealed by this Order shall, notwithstanding that repeal, be in force, and shall be deemed to have always been of the like validity and effect as if they had originally been made by Order in Council.

44. The power conferred on the Chief Justice of the Supreme Court for China and Japan by Article 127 of the China and Japan Order in Council, 1865,* of framing Rules from time to time, is hereby extended to the framing of Rules for prescribing and regulating the making and keeping of indexes, and of a general index, to the registers of bills of sale, and searches in those indexes, and other particulars connected with the making, keeping, and using of those registers and indexes, and for authorising and regulating the unregistering of any bill of sale, or the registering of any release or satisfaction in respect thereof.

Suits by or against Partners.

45.—(a.) The following are Rules of Procedure of Her Majesty's Courts in China and in Japan, under the China and Japan Order in Council, 1865 * :—

- (1.) Persons claiming or being liable as partners may sue or be sued in the firm name, if any.
- (2.) Where partners sue in the firm name, they must, on demand in writing on behalf of any defendant, forthwith declare the names and addresses of the partners.
- (3.) Otherwise all proceedings in the suit may, on application, be stayed on such terms as the Court thinks fit.

* Printed at p. 214 above.

- (4.) When the names of the partners are so declared, the suit proceeds in the same manner, and the same consequences in all respects follow as if they had been named as the plaintiffs in the petition.
- (5.) All subsequent proceedings nevertheless continue in the firm name.
- (6.) Where partners are sued in the firm name, the petition must be served either on one or more of the partners within the jurisdiction, or at the principal place of the partnership business within the jurisdiction on some person having then and there control or management of the partnership business.
- (7.) Where one person carrying on business in the name of a firm apparently representing more persons than one, is sued in the firm name, the petition may be served at the principal place of the business within the jurisdiction on some person having then and there control or management of the business.
- (8.) Where partners are sued in the firm name they must appear individually in their own names.
- (9.) All subsequent proceedings nevertheless continue in the firm name.
- (10.) Where a person, carrying on business in the name of a firm apparently representing more persons than one, is sued in the firm name he must appear in his own name.
- (11.) All subsequent proceedings nevertheless continue in the firm name.
- (12.) In any case not hereinbefore provided for, where persons claiming or being liable as partners sue or are sued in the firm name, any party to the suit may, on application to the Court, obtain a statement of the names of the persons who are partners in the firm, to be furnished and verified on oath or otherwise, as the Court thinks fit.
- (13.) Where a judgment is against partners in the firm name, execution may issue—
 - (i.) against any property of the partners as such ; and
 - (ii.) against any person who has admitted in the suit that he is a partner, or who has been adjudged to be a partner ; and
 - (iii.) against any person who has been served in the suit as a partner, and has failed to appear.
- (14.) If the party who has obtained judgment claims to be entitled to issue execution against any other person, as being a partner, he may apply to the Court for leave so to do ; and the Court, if the liability is not disputed, may give such leave, or if it is disputed may order that the question of the liability be tried and determined as a question in the suit, in such manner as the Court thinks fit.

(b.) The foregoing Rules may be from time to time varied by Rules of Procedure made under the *China and Japan Order in Council, 1865*.*

(c.) Printed copies of the foregoing Rules must be exhibited conspicuously in each Court and Consulate in *China and Japan*, with the other Rules of Procedure for the time being in force under the *China and Japan Order in Council, 1865*,* and be sold at such reasonable price as the Chief Justice of the Supreme Court from time to time directs.

(d.) A printed copy of the foregoing Rules purporting to be certified under the hand of the Chief Justice of the Supreme Court and the seal of that Court is for all purposes conclusive evidence thereof.

46.—(a.) The provisions of this Order do not apply to proceedings instituted by or against partnerships or partners or agents thereof, before the commencement of this Order.

(b.) As regards proceedings instituted by or against partnerships or partners or agents thereof before the commencement of this Order, the regulations repealed by this Order shall, notwithstanding that repeal, be in force, and shall be deemed to have always been of the like validity and effect as if they had been Rules of Procedure made under the *China and Japan Order in Council, 1865**; and, as regards the same proceedings, the Rule of Procedure (252) repealed by this Order shall continue to have effect, notwithstanding that repeal, subject always to the operation of the regulations repealed by this Order.

Suits by or against Foreigners.

47.—(a.) Where a foreigner desires to institute or take a suit or proceeding of a civil nature against a British subject, or a British subject desires to institute or take a suit or proceeding of a civil nature against a foreigner, the Supreme Court for *China and Japan*, and the Court for *Japan*, and a Provincial Court, according to the respective jurisdiction of the Court, may entertain the suit or proceeding, and hear and determine it; and, if all parties desire, or the Court directs, a trial with a jury or assessors, then, with a jury or assessors, at a place where such a trial might be had if all parties were British subjects, but in all other respects according to the ordinary course of the Court:

(b.)† Provided that the foreigner: (i.) first files in the Court his consent to the jurisdiction of the Court; and (ii.) also, if required by the Court, obtains and files a certificate in writing from a competent authority of his own Government to the effect that no objection is made by that Government to the foreigner submitting in the particular cause or matter to the jurisdiction of the Court; and (iii.) also, if required by the Court, gives security to the satisfaction of the Court, to such reasonable amount as the Court directs, by deposit of money or otherwise, to pay fees, costs,

* Printed at p. 214 above.

† Sub-section (b) was substituted for the previous sub-section by the Order of August 3, 1886, as from the gazetting of the 1886 Order, i.e. August 6, 1886.

damages, and expenses, and to abide by and perform the decision to be given by the Court or on appeal.

(c.) A counter-claim or cross-suit cannot be brought or instituted in the Court against a plaintiff, being a foreigner, who has submitted to the jurisdiction, by a defendant, except by leave of the Court first obtained.

(d.) The Court, before giving leave, requires proof from the defendant that his claim arises out of the matter in dispute, and that there is reasonable ground for it, and that it is not made for vexation or delay.

(e.) Nothing in this provision prevents the defendant from instituting or taking in the Court against the foreigner, after the termination of the suit or proceeding in which the foreigner is plaintiff, any suit or proceeding that the defendant might have instituted or taken in the Court against the foreigner if no provision restraining counter-claims or cross-suits had been inserted in this Order.

(f.) Where a foreigner obtains in the Court an Order against a defendant, being a British subject, and in another suit that defendant is plaintiff and the foreigner is defendant, the Court may, if it thinks fit, on the application of the British subject, stay the enforcement of the Order pending that other suit, and may set off any amount ordered to be paid by one party in one suit against any amount ordered to be paid by the other party in the other suit.

(g.) Where a plaintiff, being a foreigner, obtains in the Court an Order against two or more defendants, being British subjects, jointly, and in another suit one of them is plaintiff, and the foreigner is defendant, the Court may, if it thinks fit, on the application of the British subject, stay the enforcement of the Order pending that other suit, and may set off any amount ordered to be paid by one party in one suit against any amount ordered to be paid by the other party in the other suit, without prejudice to the right of the British subject to require contribution from his co-defendants under the joint liability.

(h.) Where a foreigner is co-plaintiff in a suit with a British subject who is within the particular jurisdiction, it is not necessary for the foreigner to make deposit or give security for costs, unless the Court so directs ; but the co-plaintiff British subject is responsible for all fees and costs.

Chinese, Japanese, or Foreign Tribunals.

48.—(a.) Where it is shown to the Supreme or other Court that the attendance of a British subject to give evidence, or for any other purpose connected with the administration of justice, is required in a Chinese or Japanese Court, or before a Chinese or Japanese judicial officer or in a Court or before a judicial officer of any State in amity with Her Majesty, the Supreme or other Court may, if it thinks fit, in a case and in circumstances in which it would require his attendance before itself, order that he do attend as so required.

(b.) A Provincial Court, however, cannot so order attendance at any place beyond its particular jurisdiction.

(c.) If the person ordered to attend, having reasonable notice of the time and place at which he is required to attend, fails to attend accordingly, and does not excuse his failure to the satisfaction of the Supreme or other Court, he is, independently of any other liability, guilty of an offence against this Order, and for every such offence, on conviction thereof, by summary trial, is liable to a fine not exceeding 500 dollars, or to imprisonment for not exceeding one month, in the discretion of the Court.

And the Right Honourable the Earl Granville, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein.

C. L. Peel.

The Schedule to which the foregoing Order in Council refers.

I.—Regulations made by Sir Rutherford Alcock while Her Majesty's Minister in China, intituled or designated as Land Regulations, Regulations, and Bye-laws annexed to the Land Regulations, for the foreign quarter of Shanghai north of the Yang-King-Pang, and commonly called the Shanghai Land Regulations.

II.—Port, Consular, Customs, and Harbour Regulations applicable to all the treaty ports in China, dated 31 May 1869.*

THE SHANGHAI SHIPPING REGISTRY ORDER IN COUNCIL OF 1883.
DATED MAY 22, 1883.

[This Order in Council is printed under the title "Merchant Shipping."]

THE CHINA, *Japan*,† AND COREA ORDER IN COUNCIL, 1884, AS AMENDED
BY THE CHINA, *Japan*,† AND COREA ORDER IN COUNCIL, 1886.‡
DATED APRIL 3, 1886.

At the Court at Windsor, the 26th day of June, 1884.

PRESENT :

The Queen's Most Excellent Majesty in Council.

Whereas, by treaty and otherwise, Her Majesty the Queen has power and jurisdiction within China and *Japan* and the dominions of the King of Corea :

Now, therefore, Her Majesty, by virtue and in exercise of the powers in this behalf by the Foreign Jurisdiction Acts, 1843 to 1878,§ and otherwise in Her vested, is pleased by and with the

* Printed in "Hertault's Treaties," Vol. xiii. p. 1268.

† See first footnote at p. 214 above.

‡ Printed in Statutory Rules and Orders Revised (1st Edition), Vol. 3, p. 394.

§ 6 & 7 Vict. c. 94 ; 29 & 30 Vict. c. 87 ; 38 & 39 Vict. c. 85 ; 41 & 42 Vict. c. 67 ; now repealed and consolidated by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

1. This Order may be cited as the *China, Japan, and Corea Order in Council, 1884.*

2. In this Order—

The expression the “*China and Japan Orders in Council*,” means the following :—

The *China and Japan Order in Council, 1865,** as amended by the Orders in Council, dated the 13th

May 1869,† and the 30th April 1877;‡

The Orders in Council of the 19th June 1868, and the 21st July 1876, relating to Consular fees; §

The *China and Japan Maritime Order in Council, 1874; ||*

The *China and Japan Order in Council, 1878; ¶*

The *China and Japan Order in Council, 1881; ***

The *Shanghai Shipping Registry Order in Council, 1883; ||*

and any Order in Council amending or extending this or any of the above-mentioned Orders in Council.

The expression “*Corea*” means the dominions for the time being of the King of Corea, including the territorial waters thereof.

Other expressions to which meanings are assigned by the *China and Japan Orders in Council* have the same meanings in this Order unless the subject or context otherwise requires.

In the *China and Japan Orders in Council*, and in this Order, the expression “*British subject*” shall include a British-protected person in so far as by treaty, capitulation, grant, usage, sufferance, or other lawful means, Her Majesty has jurisdiction in relation to such persons in *China, Japan, and Corea* respectively.

This Order may be cited as “*The China, Japan, and Corea Order in Council, 1884.*”

3. Any person for the time being, acting as Consul-General, Consul, or Vice-Consul, holding Her Majesty’s commission for Corea or any part thereof, or any person acting temporarily with the approval of a Secretary of State, or in case of emergency appointed temporarily by or acting with the approval of Her Majesty’s Minister for Corea, as and for a Consul-General, Consul, or Vice-Consul as aforesaid, shall in and for such district as may be assigned

* Printed at p. 214 above.

† Published in “*London Gazette*,” May 14, 1868, p. 2814.

‡ Printed at p. 247 above.

§ These Orders in Council were published in the “*London Gazette*,” June 23, 1868, p. 3506, and July 23, 1876, p. 4233 respectively. They have been superseded by subsequent Orders, that now in force being “*The China and Corea (Consular and Marriage) Fees Order in Council, 1900*,” printed under the title “*Consul, British.*”

|| Printed under the title “*Merchant Shipping.*”

¶ Printed at p. 250 above.

** Printed at p. 255 above.

by his commission or appointment, or as may be so approved, hold and form a Court for the purposes of this Order.

4. For the purposes and subject to the provisions of this Order—

- (1.) All Her Majesty's jurisdiction exerciseable, for the time being in Corea, under the Foreign Jurisdiction Acts, shall be exercised by a Court acting under this Order.
- (2.) Such jurisdiction shall be exercised under and in accordance with the provisions of the *China and Japan Orders in Council*, and of any rules and regulations made under the authority thereof, and for the time being in force so far as the same are applicable, as if in those provisions expressions referring to Japan, or to any Government, Sovereign, person, thing, or matter in or relating to Japan, referred also *mutatis mutandis* to Corea, and to the corresponding Government, Sovereign, person, thing, or matter in or relating to Corea; and for the purposes of the said Orders in Council, rules and regulations as applied by this Order, a Court acting under this Order shall be deemed to be a Provincial Court.
- (3)* All powers and jurisdiction, whether original, appellate, or auxiliary, which can, under the said Orders, be exercised in relation to any Provincial Court in Japan, or in, or in relation to, the district of any such Court by the Court for Japan, or by the Supreme Court for China and Japan, may be exercised in relation to Corea or any Provincial Court therein, or in, or in relation to, the district of any such Court by the Supreme Court for China and Japan.

Provided that nothing in this Order shall render invalid anything done before the commencement of this Order, or before the publication of this Order in China and Corea.

5. The powers and jurisdiction exerciseable under this Order, or under the said Orders in Council, as applied to Corea, shall, in relation to Corea, be exercised subject to the provisions of the treaty dated the 26th November 1883,† between Her Majesty and the King of Corea, and to the regulations and protocol appended to the said treaty, and to the provisions of any other treaty for the time being in force between Her Majesty and the King of Corea, and the provisions of the said treaty, regulations, and protocol shall have effect as if incorporated in this Order.

6. Where, by virtue of any Imperial Act, or of any of the *China and Japan Orders in Council*, or this Order, or otherwise, any provisions of any Imperial Acts, or of any Orders in Council other

* Sub-section (3) was substituted for the previous sub-section by the Order of 1886.

† Printed in "Hertslet's State Papers," Vol. lxxiv. p. 86.

than this Order, are applicable in China, *Japan*, or Corea, or any forms, regulations, or procedure prescribed or established by or under any such Order or Act, in relation to any matter, or made applicable for any purpose of any of the China or *Japan* Orders in Council, or of this Order, such Acts, Orders, forms, regulations, or procedure shall be deemed applicable, so far only as the constitution and jurisdiction of the Courts and the local circumstances permit; and for the purpose of facilitating their application, they may be construed, or used with such alterations and adaptations not affecting the substance as may be necessary, and anything required to be done by or to any Court, Judge, officer, or authority may be done by or to a Court, Judge, officer, or authority having the like or analogous functions; and the seal of the Consular Court may be substituted for any seal required by any such Act, Order, form, regulation, or procedure, and in case any difficulty occurs in the application of any such Act, Order, form, regulation, or procedure it shall be lawful for a Secretary of State to direct by and to whom and in what manner anything to be done under such Act, Order, or regulation, is to be done, and such Act, or Order shall, in its application to matters arising under the China and *Japan* Orders in Council, or this Order, be construed accordingly.

7.—(1.) In cases of murder or manslaughter, if either the death or the criminal act which wholly or partly caused the death happened within the jurisdiction of a Court acting under the China and *Japan* Orders in Council or this Order, such Court shall have the like jurisdiction over any person, being a British subject, who is charged either as the principal offender or as accessory before the fact to murder, or as accessory after the fact to murder or manslaughter, as if both such criminal act and the death had happened within such jurisdiction.

(2.) In the case of any crime committed on the high seas, or within the Admiralty jurisdiction, by any British subject on board a British ship, or on board a foreign ship to which he did not belong, a Court acting under this Order shall have jurisdiction as if the crime had been committed within the district of such Court. In cases tried under this article, no different sentence can be passed from the sentence which could be passed in England if the crime were tried there.

(3.) The foregoing provisions of this article shall be deemed to be adaptations for the purposes of this Order, and of the Foreign Jurisdiction Act, 1878,* of the following enactments described in the First Schedule to that Act (that is to say):—

The Admiralty Offences (Colonial) Act, 1849.†
 The Admiralty Offences (Colonial) Act, 1860.‡
 The Merchant Shipping Act, 1867,§ section 11.

* 41 & 42 Vict. c. 67; now repealed and consolidated with other Acts by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

† 12 & 13 Vict. c. 96.

‡ 23 & 24 Vict. c. 122.

§ 31 & 32 Vict. c. 129; now repealed and consolidated with other Acts by the Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60).

And the said enactments shall, so far as they are repeated and adapted by this article (but not further or otherwise), extend to China, *Japan* and *Corea*.

8. The Fugitive Offenders Act, 1881,* shall apply, in relation to British subjects, to China, *Japan*, and *Corea* respectively, as if such countries were British possessions, and for the purposes of Part II. of the said Act and of this article, China, *Japan*, and *Corea* shall be deemed to be one group of British possessions, and Her Majesty's Minister for China, *Japan*, or *Corea* (as the case may be) shall have the powers of a Governor or Superior Court of a British possession.

9. Judicial notice shall be taken of the *China and Japan Orders* in Council and of this Order, and of the commencement thereof, and of the appointment of Consuls or other officers, and of the constitution and limits of the Consular Courts and districts, and of consular seals and signatures, and of any rules or regulations made or in force under the *China and Japan Orders* in Council or this Order, and no proof shall be required of any of such matters.

The provisions of the Evidence Act, 1851 (14 and 15 Vict. c. 99), sections 7 and 11, relating to the proof of judicial and other documents, shall extend and be applied for all purposes as if the Courts, districts, and places to which the *China and Japan Orders* in Council or this Order applies were in a British Colony.

10. This Order shall come into operation at such time or times in China, *Japan*, and *Corea* respectively as a Secretary of State, by a notice published in the "*London Gazette*" at or after the time of the publication therein of this Order, directs.†

11. This Order shall be published in China, *Japan*, and *Corea* in such manner, and printed copies thereof shall be kept for sale at the Consular Courts there, at such prices as a Secretary of State from time to time directs.

And the Right Honourable the Earl Granville and the Right Honourable the Earl of Derby, two of Her Majesty's Principal Secretaries of State, and the Lords Commissioners of the Admiralty are to give the necessary directions herein as to them may respectively appertain.

U. L. Peel.

* 44 & 45 Vict. c. 69.

† By Notice gazetted July 8th, 1884, this Order was brought into operation in China, on October 1st, 1884, and under the provisions of Article 3 of the *China and Corea Order* (Supplemental) of 1884 it came into operation in *Corea* on September 9th, 1884.

THE CHINA, *Japan*,* AND COREA ORDER IN COUNCIL, 1884
(SUPPLEMENTAL).

At the Court at Balmoral, the 9th day of September, 1884.

PRESENT :

The Queen's Most Excellent Majesty.

Earl of Fife.

Mr. Gladstone.

Sir Henry Ponsonby.

Whereas by treaty and otherwise Her Majesty the Queen has power and jurisdiction within China and *Japan* and the dominions of the King of Corea :

Now, therefore, Her Majesty, by virtue and in exercise of the powers in this behalf by the Foreign Jurisdiction Acts, 1843 to 1878,† and otherwise, in Her vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered as follows :

1. This Order may be cited as the "China, *Japan*, and Corea Order in Council, 1884 (Supplemental)."

2. This Order shall be construed with the China, *Japan*, and Corea Order in Council, 1884 ‡ (herein called the Principal Order).

3. Notwithstanding anything contained in the Principal Order, or in any notice published in pursuance thereof, the Principal Order, so far as it relates to Corea, and also this Order, shall come into operation on the day named in this Order as the date of this Order.

4. The provisions of the China and *Japan* Order in Council, 1881,§ Articles 6 to 20, both inclusive, so far as the same are for the time being in force, shall apply to Corea, *mutatis mutandis*, with the substitution in the 20th Article thereof of "Corea" for "*Japan*," and of the "King of Corea" for the "Mikado of *Japan*," provided that all things to be done under the said articles by Her Majesty's Minister in China may be done in relation to Corea either by Her Majesty's Minister in China or by any person appointed or acting as Her Majesty's Minister for Corea, or, with the approval of a Secretary of State, by any person acting as Consul-General for Corea.

5. This Order shall be published in Corea in such manner, and printed copies thereof shall be kept for sale at the Consular Courts there at such prices, as a Secretary of State from time to time directs.

And the Right Honourable the Earl Granville, one of Her Majesty's Principal Secretaries of State, and the Lords Commissioners of the Admiralty are to give the necessary directions herein as to them may respectively appertain.

C. L. Peel.

* See first footnote at p. 214 above.

† 6 & 7 Vict. c. 94 ; 29 & 30 Vict. c. 87 ; 38 & 39 Vict. c. 85 ; 41 & 42 Vict. c. 67 ; now repealed and consolidated by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

‡ Printed at p. 266 above.

§ Printed at p. 255 above.

THE CONSULAR COURTS (ADMIRALTY) ORDER IN COUNCIL, 1894.
DATED AUGUST 7, 1894.

1894 No. 199.

(This Order in Council is printed at p. 37 above.)

THE CHINA and Japan ORDER IN COUNCIL, 1898.

No. 1066. 1898.

At the Court at Balmoral, the 20th day of October, 1898.

PRESENT :

The Queen's Most Excellent Majesty.

Duke of Fife.

Earl of Kintore.

Lord George Hamilton.

Whereas by Treaty, capitulation, grant, usage, sufferance, and other lawful means, Her Majesty the Queen has jurisdiction in China and Japan.

Now, therefore, Her Majesty, by virtue and in exercise of the powers in this behalf by the "Foreign Jurisdiction Act, 1890,"* or otherwise in Her Majesty vested, is pleased, by and with the advice of the Privy Council to order, and it is hereby ordered, as follows :—

1. The Registrar of Her Majesty's Supreme Court for China and Japan shall be appointed by Her Majesty.

He shall be either a member of the Bar of England, Scotland, or Ireland, or a solicitor of the Supreme Court in England or Ireland, or a writer to Her Majesty's Signet, or a solicitor in the Supreme Courts of Scotland.

He may also, with the approval of the Secretary of State, hold the office of Chief Clerk of the Supreme Court.

In case of the absence or illness of the Registrar, or during a vacancy in the office of Registrar, or during the employment of the Registrar in another capacity, or on emergency, the Chief Justice may, by writing under his hand and the Seal of the Supreme Court, appoint any fit person to act as Registrar for the time therein mentioned, or until the appointment is revoked by the Chief Justice or disapproved by the Secretary of State.

2. The Registrar shall, subject to any directions of the Supreme Court, hear and determine in a summary way such criminal cases as may, under the Orders in Council relating to China and Japan, be so heard and determined, and for that purpose shall have the jurisdiction, power, and authority of the Supreme Court.

* 53 & 54 Vict. c. 37.

3. The Registrar shall, subject to any directions of the Supreme Court, have and discharge within the district of the Consulate-General of Shanghai all the powers, rights, and duties appertaining to the office of Coroner in England; and Article 53 of "The China and Japan Order in Council, 1865," * shall apply to the Registrar in like manner as to the Supreme Court and every other Court.

4. On the commencement of this Order the Assistant Judge of the Supreme Court shall cease to be the Registrar of that Court; and the existing Chief Clerk shall be the first Registrar under the provisions of this Order.

Sub-article (2) of Article 4 of "The China and Japan Order in Council, 1878," † is hereby revoked.

5. This Order shall come into force on the day on which it is first exhibited in the public office of Her Majesty's Consulate-General of Shanghai, and that day is in this Order referred to as the commencement of this Order.

6. This Order may be cited as "The China and Japan Order in Council, 1898."

A. W. FitzRoy.

THE CHINA, JAPAN, AND COREA (PATENTS, &c.) ORDER IN COUNCIL,
1899.

1899. No. 82.

At the Court at Osborne House, Isle of Wight, the 2nd day of
February, 1899.

PRESENT :

The Queen's Most Excellent Majesty in Council.

Whereas by Treaty, grant, usage, sufferance, and other lawful means, Her Majesty the Queen has power and jurisdiction in China, Japan, and Corea :

Now, therefore, Her Majesty, by virtue and in exercise of the powers in this behalf by "The Foreign Jurisdiction Act, 1890," ‡ and otherwise in Her vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

1. Any act which, if done in the United Kingdom or in a British possession, would be an offence against any of the following Statutes of the Imperial Parliament or Orders in Council, that is to say :—

"The Merchandise Marks Act, 1887" : §

"The Patents, Designs, and Trade Marks Acts, 1883 to 1888" : ||

* Printed at p. 214 above.

† Printed at p. 250 above.

‡ 53 & 54 Vict. c. 37.

§ 50 & 51 Vict. c. 28.

|| 46 & 47 Vict. c. 57; 48 & 49 Vict. c. 63; 49 & 50 Vict. c. 37; 51 & 52 Vict. c. 50.

Any Act, Statute, or Order in Council for the time being in force relating to copyright or to inventions, designs, or trade-marks ; or

Any Statute amending or substituted for any of the above-mentioned Statutes ;

Shall, if done by a British subject in China, *Japan*, or Corea, be an offence against this Order, whether such act is done in relation to any property or right of a British subject, or of a foreigner or otherwise :

Provided—

- (1.) That a copy of any such Statute or Order in Council shall be published in the public offices of the Consulates-General of Shanghai, *Tokio*, and Seoul respectively, and shall be there open for inspection by any person at all reasonable times ; and a person shall not be punished under this Order for anything done before the expiration of one month after such publication, unless the person offending is proved to have had express notice of the Statute or Order ;
- (2.) That a prosecution by or on behalf of a prosecutor who is not a British subject shall not be entertained without the consent, in writing, of Her Majesty's Minister or Charge d'Affaires, who may withhold such consent, unless he is satisfied that effectual provision exists for the punishment, in Consular or other Courts in China, *Japan*, or Corea (as the case may be), of similar acts committed by the subjects of the State or Power of which such prosecutor is a subject, in relation to or affecting the interests of British subjects.

2. An offence against this Order shall be punishable with imprisonment for any period not exceeding three months, or fine not exceeding £100, or both.

3. This Order may be cited as "The China, *Japan*, and Corea (Patents, &c.) Order in Council, 1899."

And the Most Honourable the Marquess of Salisbury, K.G., one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein.

A. W. FitzRoy.

THE CHINA, JAPAN, AND COREA (SUPREME COURT) ORDER IN
COUNCIL, 1899.

1899. No. 572.

At the Court at Windsor, the 14th day of July, 1899.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.

Duke of Marlborough.

Lord Chamberlain.

Whereas, by Treaty and otherwise, Her Majesty has power and jurisdiction within China, *Japan*, and Corea :

Now, therefore, Her Majesty, by virtue and in exercise of the powers in this behalf by "The Foreign Jurisdiction Act, 1890," * and otherwise in Her vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

1. This Order may be cited as "The China, *Japan*, and Corea (Supreme Court) Order in Council, 1899."

2. All Decrees, Orders, and sentences made and passed by Her Majesty's Supreme Court for China, *Japan*, and Corea shall be executed by such officer of the Court or Consular officer as Her Majesty's Minister in China shall from time to time appoint for the purpose.

3. Article 42 of "The China and *Japan* Order in Council, 1865," † is hereby repealed.

A. W. FitzRoy.

ORDER IN COUNCIL DECLARING THAT CERTAIN PROVISIONS OF
PREVIOUS ORDERS IN COUNCIL SHALL CEASE TO BE IN FORCE
WITHIN JAPAN.

1899. No. 756.

At the Court at Balmoral, the 7th day of October, 1899.

PRESENT :

The Queen's Most Excellent Majesty.

His Royal Highness the Duke of Connaught and Strathearne.

Lord Balfour of Burleigh.

Sir Fleetwood Edwards.

Whereas, by Treaty, grant, usage, sufferance, and other lawful means, Her Majesty the Queen has power and jurisdiction in the Empire of Japan :

And whereas the exercise of the power and jurisdiction afore-said is now regulated by "The China and *Japan* Order in Council, 1865," † and subsequent amending Orders in Council :

* 53 & 54 Vict. c. 37.

† Printed at p. 214 above.

And whereas, by Treaty between Her Majesty and the Emperor of Japan, signed at London on the 16th July, 1894,* it was agreed that from the date when that Treaty should come into force certain Conventions, Arrangements, and Agreements with respect to Her Majesty's jurisdiction in Japan should cease to be binding, and in consequence that the jurisdiction then exercised by British Courts in Japan, and all the exceptional privileges, exemptions, and immunities then enjoyed by British subjects as a part of or appurtenant to such jurisdiction should absolutely cease and determine, and thereafter all such jurisdiction should be assumed and exercised by Japanese Courts.

And whereas the said Treaty came into force on the 17th day of July, 1899, but it has been agreed by and between Her Majesty and the Emperor of Japan that its operation as regards Her Majesty's Consular jurisdiction should be suspended until the 4th day of August, 1899.

Now, therefore, Her Majesty, by virtue and in exercise of the powers in this behalf by "The Foreign Jurisdiction Act, 1890,"† or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

As regards all such matters and cases as come within the jurisdiction of the Japanese Courts, the operation of the Orders in Council regulating Her Majesty's Consular jurisdiction in the Empire of Japan shall cease to be in force and operation within the said Empire as from the 4th day of August, 1899, except as regards any judicial matters pending in any of Her Majesty's Consular Courts in Japan on the day above mentioned.

And the Most Honourable the Marquess of Salisbury, K.G., one of Her Majesty's Principal Secretaries of State, and the Lords Commissioners of the Treasury, and the Lords Commissioners of the Admiralty, are to give the necessary directions herein as to them may respectively appertain.

A. W. FitzRoy.

THE CHINA AND COREA (SUPREME COURT) ORDER IN COUNCIL, 1900.
1900. No. 167.

At the Court at Windsor, the 3rd day of March, 1900.

PRESENT :

The Queen's Most Excellent Majesty.

Lord Chancellor.

Lord President.

Lord James of Hereford.

Whereas by Treaty, grant, usage, sufferance, and other lawful means, Her Majesty the Queen has power and jurisdiction in China and Corea ;

* See Art. XX. of Treaty. Printed in "Hertale's State Papers." Vol. 86, p. 39.

† 53 & 54 Vict. c. 37.

And whereas by "The China and Japan Order in Council, 1865,"* a Court was established, styled Her Britannic Majesty's Supreme Court for China and Japan;

And whereas by "The China, Japan, and Corea Orders in Council, 1884† and 1886,"‡ it was provided that all powers and jurisdiction of the said Supreme Court should be exerciseable in relation to Corea;

And whereas by virtue of an Order in Council made on the 7th day of October, 1899,§ the Orders in Council regulating Her Majesty's Consular jurisdiction in the Empire of Japan have, save as provided in the said Order, ceased to be in force and operation within that Empire;

And whereas, in view of the recited extension of jurisdiction as respects Corea, and cesser of jurisdiction as respects Japan, it is expedient that the style of the said Supreme Court should be altered, and also that the provisions of "The China and Japan Order in Council, 1865," and of the Orders amending or extending that Order should be repealed so far as they relate to Japan:

Now, therefore, Her Majesty, by virtue and in exercise of the powers in this behalf by "The Foreign Jurisdiction Act, 1890,"|| or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

1. The Court established by Article 7 of "The China and Japan Order in Council, 1865," shall be styled "Her Britannic Majesty's Supreme Court for China and Corea," and all references in that Order or in the Orders amending or extending that Order to the Supreme Court for China and Japan, or to the Supreme Court, shall, in so far as the said Orders relate or are applied to China or Corea, be read as references to the Supreme Court for China and Corea.

2. All provisions relating to the exercise of Her Majesty's power and jurisdiction in Japan, contained in "The China and Japan Order in Council, 1865," or any Order amending or extending that Order, are hereby repealed, subject to the provisions of the said recited Order in Council of the 7th October, 1899: provided that where any of those provisions are by the same or any subsequent Order extended or applied to China or Corea, this Article shall not affect such extension and application.

3. This Order may be cited as "The China and Corea (Supreme Court) Order in Council, 1900."

A. W. FitzRoy.

* Printed at p. 214 above.

† Printed in Statutory Rules and Orders Revised (1st Edition), Vol. 3, p. 394.

‡ Printed at p. 275 above.

§ Printed at p. 266 above.

|| 53 & 54 Vict. c. 37.

THE CHINA (WHANGPOO RIVER CONSERVANCY) ORDER IN COUNCIL,
1902.

1902. No. 207.

At the Court at St. James's, the 6th day of March, 1902.

PRESENT :

The King's Most Excellent Majesty in Council.

Whereas by Treaty, grant, usage, sufferance, and other lawful means His Majesty the King has jurisdiction within the dominions of the Emperor of China ;

And whereas by Article 11 of the Final Protocol, signed at Peking on the 7th day of September, 1901, by the Envoys and Plenipotentiaries of China, and of certain other Powers, including His Majesty the King, provision is made for the establishment of a Conservancy Board for the improvement and control of the navigation of the River Whangpoo ;

And whereas the detailed Regulations with respect to the constitution, powers, and revenues of the said Conservancy Board are contained in Annex No. 17 appended to the said Protocol, a translation of which Annex appears in the Schedule to this Order :

And whereas it is expedient that the said Regulations should be made binding upon British subjects :

Now, therefore, His Majesty, by virtue and in exercise of the powers in his behalf by the "Foreign Jurisdiction Act, 1890,"* or otherwise in His Majesty vested, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. The Regulations contained in the said Annex No. 17, a translation of which appears in the Schedule to this Order, are hereby declared to be binding upon all British subjects.

2. In like manner any modifications of the said Regulations, and any ordinances or regulations of the said Conservancy Board enacted in pursuance thereof shall, when brought into force in accordance with the provisions of those Regulations, be binding upon all British subjects.

3. Any proceedings by the said Conservancy Board, or by any Consul or Municipality against any British subject in respect of any tax or duty payable, or any dispute or matter arising under the said Regulations, or under any such ordinances or regulations of the said Board, shall be taken in the proper British Court in accordance with the provisions of the Orders in Council for the time being in force relating to the exercise of His Majesty's jurisdiction in China.

4. All fines imposed by a British Court under any ordinances or regulations to which effect is given by this Order shall, when

* 53 & 54 Vict. c. 37.

recovered, be disposed of in such manner as may be prescribed by such ordinances or regulations, or if the disposal thereof is not so prescribed, in such manner as the Secretary of State may direct.

5. This Order shall come into force on such day as His Majesty's Minister in China shall by public notification appoint.*

6. This Order may be cited as "The China (Whangpoo River Conservancy) Order in Council," 1902.

And the Most Honourable the Marquess of Lansdowne, K.G., one of His Majesty's Principal Secretaries of State, is to give the necessary directions herein.

A. W. FitzRoy.

Schedule.

ANNEX No. 17 TO THE FINAL PROTOCOL

(Translation.)

Regulations for the Improvement of the Course of the Whangpoo.

Sec. 1. A River Conservancy Board is hereby instituted at Shanghai for the Whangpoo River.

Sec. 2. The Board will act in double capacity : firstly, as an agency for the rectification and improvement of the waterway ; and secondly, as an agency for its control.

Sec. 3. The jurisdiction of the Board shall extend from a line drawn from the lower limit of Kiang-nan Arsenal towards the mouth of the Arsenal Creek, to the red buoy in the Yang-tsze.

Sec. 4. The Board shall consist of :—

- (a.) The Taotai.
- (b.) The Commissioner of Customs at Shanghai.
- (c.) Two members elected by the Consular Body.
- (d.) Two members of the General Chamber of Commerce of Shanghai elected by the Committee of the said Chamber.
- (e.) Two members representing shipping interests, elected by Shipping Companies, commercial firms and the merchants, the total of whose entrances and clearances at Shanghai, Woosung, and other ports on the Wangpoo exceeds 5000 tons per annum.
- (f.) A member of the Municipal Council of the International Settlement.
- (g.) A member of the Municipal Council of the French Concession ; and
- (h.) A representative of each country, the total of whose entrances and clearances at Shanghai, Woosung, and any other port of the Whangpoo exceeds 200,000 tons a year. Said representative shall be designated by the Government of the country interested.

Sec. 5. The *ex officio* members shall hold office as long as they fill the position by virtue of which they sit on the Board.

Sec. 6. The representatives of the Municipal Councils and of the Chamber of Commerce shall be elected for a period of one year. They are eligible for immediate re-election.

* The Board provided for by this Order has not (December 31, 1903) been constituted.

The term of office of the members to be designated by the Governments provided for under paragraph (h) of section 4, shall also be one year.

The term of the other members is for three years. They are eligible for immediate re-election.

Sec. 7. In case of a vacancy during a term, the successor of the out-going member shall be designated for one year or for three years, according to the class to which he belongs.

Sec. 8. The Board shall elect its Chairman and Vice-Chairman from among its members, for a term of one year. If there is no majority at the election of Chairman, the senior Consul shall be requested to give a casting vote.

Sec. 9. In case of the absence of the Chairman, the Vice-Chairman shall take his place. If both of them are absent the members present shall choose among themselves a Chairman *ad hoc*.

Sec. 10. In all meetings of the Board, if votes are equally divided, the Chairman shall have a casting vote.

Sec. 11. Four members form a quorum.

Sec. 12. The Board shall appoint the officials and employees deemed necessary for carrying out the works and enforcing its Regulations; it shall fix their salaries, wages, and gratuities, and shall pay them out of the funds placed at its disposal; it may make Regulations, take every measure necessary concerning its staff, which it can dismiss at pleasure.

Sec. 13. The Board shall decide on the necessary measures for the regulation of the traffic, including the placing of moorings in the river and the berthing of vessels, between the limits mentioned in section 3, and on all water-courses (such as the Soochow Creek and others) passing through the French Concession or the International Settlement at Shanghai and the foreign quarter at Woosung, as well as on all the other creeks emptying into the river, for a distance of 2 English miles above their mouths.

Sec. 14. The Board shall have power to expropriate the private moorings and to establish a system of public moorings in the river.

Sec. 15. The authorisation of the Board shall be necessary to carry out any dredging; to build bunds; to construct jetties or to place pontoons and hulks in the section of the river mentioned in section 13, including the Soochow and other creeks. The Board may, at its discretion, refuse such permission.

Sec. 16. The Board has full power to remove all obstacles in the river or the above-mentioned creeks, and to recover, if necessary, the cost of so doing from those responsible.

Sec. 17. The Board has control of all floating lights, buoys, beacons, landmarks, and light-signals within the section of the river and within the creeks mentioned in section 13, as well as over such marks on the shore as may be necessary for the safe navigation of the river, with the exception of light-houses, which shall remain subject to Article XXXII. of the Treaty of 1858 between Great Britain and China.

Sec. 18. The improvement and conservancy works of the Whangpoo shall be entirely under the technical control of the Board, even should the carrying out of them necessitate works beyond the limits of its jurisdiction. In this case the necessary orders will be transmitted by, and the work will be done with the consent of, the Chinese authorities.

Sec. 19. The Board shall receive and disburse all the funds collected for the works and take, in conjunction with the competent authorities, all proper and efficacious measures to insure the collection of the taxes and the enforcement of the Regulations.

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Sec. 20. The Board shall appoint the Harbour-master and his staff. This Department shall act, within the limits of the powers assigned to the Board, in the section of the river indicated in section 13.

Sec. 21. The Board shall have power to organise a police and watch service to insure the execution of its Regulations and Orders.

Sec. 22. The Board shall have the direction and control of the Shanghai (Lower Yang-tze) pilot service. Licences for pilots for ships bound for Shanghai shall only be issued by the Board and at its discretion.

Sec. 23. In case of infractions of its Regulations, the Board shall sue offenders in the following way :—

Foreigners, before their respective Consuls, or competent judicial authority ; Chinese, or foreigners whose Governments are not represented in China, in the Mixed Court, in the presence of a foreign Assessor.

Sec. 24. All suits against the Board shall be brought before the Court of Consuls at Shanghai. The Board shall be represented in suits by its Secretary.

Sec. 25. Members of the Board and persons employed by it shall not incur any personal responsibility for the votes and acts of the Board for contracts made or expenses incurred by the said body, when the said votes, acts, contracts, and expenses concern the carrying out or the enforcement, under the authority or by order of the Board, or of one of its branches, of the Regulations enacted by the said body.

Sec. 26. Besides the provisions mentioned in section 13 of this Annex, the Board has power to enact, within the limits of its competency, all necessary Ordinances and Regulations and to fix fines for the violation thereof.

Sec. 27. The Ordinances and Regulations mentioned in section 26 shall be submitted for the approval of the Consular Body ; if two months after presenting the draft of the proposed Ordinances or Regulations the Consular Body has made no objection or suggested no modification, it shall be considered as approved and shall come into force.

Sec. 28. The Board has power to acquire by purchase the lands necessary for carrying out the works of improvement and conservancy of the Whangpoo, and to dispose of them.

If, for this purpose, it shall be deemed necessary to expropriate land, the Rules laid down in Article 6 (a) of " The Land Regulations for the foreign Settlements of Shanghai, north of the Yang-King-Pang," shall be followed. The price shall be fixed by a Committee consisting of :—

1. A person chosen by the authority to whose jurisdiction the owner is subject ;
2. One chosen by the Board ; and
3. One chosen by the Senior Consul.

Sec. 29. Riparian owners shall have the refusal of all land made in front of their properties by the reclamation carried out for the improvement of the waterways in question. The purchase price of these lands shall be fixed by a Committee composed in the same manner as provided for in section 28.

Sec. 30. The revenues of the Board will be composed of :—

- (a.) An annual tax of one-tenth of 1 per cent. on the assessed value of all lands and buildings in the French Concessions and the International Settlement.
- (b.) A tax of equal amount on all property with water frontage on the River Wangpoo, between a line drawn from the lower limit of the Kiang-nan Arsenal toward the mouth of Arsenal Creek to the place where the Whangpoo falls into the Yang-tze. The assessed value of this property shall be fixed by the Committee mentioned in section 28.

- (c.) A tax of 5 candereens per ton on all vessels of non-Chinese type and of a tonnage exceeding 150 tons entering or leaving the port of Shanghai, Woosung, or any other port on the Whangpoo.

Ships of non-Chinese type, of 150 tons and under, shall pay a quarter of the above-mentioned tax. These taxes shall only be leviable on each vessel once every four months, irrespective of the number of its entrances and clearances.

Foreign-built ships navigating the Yang-tze and only stopping at Woosung to take their river papers shall be exempted from the above-mentioned taxes on condition that on their way up and down they shall not carry on any commercial transactions at Woosung. They shall, however, be allowed to take in water and supplies at Woosung.

- (d.) A tax of one-tenth of 1 per cent. on all merchandise passing through the Customs at Shanghai, Woosung, or any other port on the Whangpoo.
- (e.) An annual contribution from the Chinese Government equal in amount to the contribution furnished by the different foreign interests.

Sec. 31. The collection of the taxes enumerated in section 30 shall be effected through the medium of the following authorities :—

Tax (a), by the respective Municipalities.

Tax (b), to be collected from persons under the jurisdiction of Governments represented in China by their respective Consuls ; the taxes to be collected from Chinese, or from persons whose Governments are not represented in China, by the Taotai.

Taxes (c) and (d), by the Imperial Maritime Customs.

Sec. 32. Should the total annual revenues of the Board not be sufficient for the payment of interest and the amortisation of the capital to be borrowed for carrying out the works, for keeping up the completed works, and for the service in general, the Board shall have the power to increase in the same proportion the various taxes on shipping, on land and buildings, and on trade to a figure sufficient to supply its recognised needs. This increase shall be applicable in the same proportion to the contribution of the Chinese Government mentioned in paragraph (e) of section 30.

Sec. 33. The Board shall give notice to the High Commissioner of Southern Trade and the Consular Body of the necessity for the increase mentioned in section 32. It shall only come into force after its approval by the Consular Body.

Sec. 34. The Board shall submit to the High Commissioner of Southern Trade and to the Consular Body, within six months after the closing of each financial year, its annual accounts, accompanied by a detailed Report on the general management and the receipts and expenditures during the preceding twelve months. This Report shall be published.

Sec. 35. If the exact and published accounts of receipts and expenditures show a balance of receipts over expenses, the taxes mentioned in section 30 shall be proportionately reduced by the Board and the Consular Body, acting conjointly. This reduction shall be applicable in the same proportion of the contribution of the Chinese Government mentioned in paragraph (e) of section 30.

Sec. 36. After the expiration of the first term of three years, the Signatories shall examine by common accord such of the provisions contained in the present Annex as may require revision. A fresh revision may take place under the same conditions every three years thereafter.

Sec. 37. Within the limits mentioned in section 13, and subject to their approval by the Shanghai Consular Body, the Ordinances of the Board shall have the force of law for all foreigners.

Peking, September 7, 1901.

(b) **Wei-hai-Wei.**

THE WEI-HAI-WEI ORDER IN COUNCIL, 1901, AS AMENDED BY THE
WEI-HAI-WEI ORDER IN COUNCIL, 1901, AMENDMENT ORDER, 1903.*

1901, No. 590, *amended by* 1903, No. 217.

At the Court at St. James's, the 24th day of July, 1901.

PRESENT :

The King's Most Excellent Majesty.

Lord President.	Lord James of Hereford.
Marquess of Cholmondeley.	Lord Pauncefote.
Viscount Cromer.	Lord Milner.
Lord Chesham.	Mr. Cecil Rhodes.

Whereas it is expedient to make provision for the exercise of the power and jurisdiction vested by Treaty in His Majesty the King in and over the parts of China within the limits of this Order :

Now, therefore, His Majesty, by virtue of the powers in this behalf by "The Foreign Jurisdiction Act, 1890,"† and otherwise in him vested, is pleased by and with the advice of His Privy Council to order, and it is hereby ordered, as follows :—

PART I.—PRELIMINARY.

1. The limits of this Order are the Island of Liu Kung, all the islands in the Bay of Wei-hai-Wei, and a belt of land 10 English miles wide along the entire coast line of the Bay of Wei-hai-Wei as has been or shall be hereafter delimited, including the territorial waters of the said islands and coast.

Provided that if, and whensoever, any delimitation of territory is agreed upon between His Majesty's Government and the Government of China, whether the same extends or diminishes such belt of 10 miles, the Commissioner shall by proclamation give public notice thereof, and thereupon the limits described in such proclamation shall be the limits of this Order.

All territories and places within the limits of this Order are in this Order referred to as "the said territories."

2. In this Order :—

"Secretary of State" means one of His Majesty's Principal Secretaries of State.

"Judge" includes Acting Judge and also the Commissioner or Acting Commissioner, when sitting as Judge.

"Supreme Court" means His Majesty's Supreme Court for Hong Kong.

* This amending Order is printed at length in Statutory Rules and Orders, 1903, p. 792.

† 53 & 54 Vict. c. 37.

- "Native" means any person of Chinese birth or parentage, not being a British subject.
- "Master" with respect to any ship includes any person (except a pilot), having command or charge of that ship.
- "Month" means calendar month.
- "Oath" and "affidavit" in case of persons for the time being allowed by law to affirm or declare, instead of swearing, include affirmation and declaration, and the expression "swear" in like case includes affirm and declare.
- "Offence" includes crime and any act or omission punishable criminally in a summary way or otherwise.
- "Ship" includes any vessel used in navigation, however propelled, with her tackle, furniture, and apparel, and any boat or other craft.

Expressions used in any ordinances, rules, regulations, or orders made under this Order shall, unless a contrary intention appears, have the same respective meanings as in this Order.

Words importing the plural or the singular may be construed as referring to one person or thing, or to more, and words importing the masculine as referring to the feminine (as the case may require).

PART II.—ADMINISTRATIVE AND LEGISLATIVE.

3.—(1.) There shall be a Commissioner (hereinafter referred to as the Commissioner) in and over the said territories, and the person who shall fill the said office of Commissioner shall be from time to time appointed by Commission under His Majesty's Sign Manual and Signet.

(2.) In the event of the death, incapacity, removal, or absence from the said territories of the Commissioner for the time being, all and every the powers and authorities by this Order granted to him shall, until His Majesty's further pleasure is signified therein, be vested in such person as may be appointed to administer the same by any instrument under His Majesty's Sign Manual and Signet, or, if there be not in the said territories any person so appointed, then in the Senior Military Officer for the time being in command of His Majesty's forces within the said territories.

(3.) The Commissioner shall administer the Government of the said territories in the name and on behalf of His Majesty, and shall do and execute in due manner all things that shall belong to the trust thereby reposed in him, according to the several powers and authorities granted or appointed to him by virtue of this Order and of his Commission, and according to such instructions as may from time to time be given to him under His Majesty's Sign Manual and Signet, or by Order of His Majesty in Council, or by His Majesty through a Secretary of State, and according to such laws as are or shall hereafter be in force in the said territories.

4. The Commissioner shall have an official seal, bearing the style of his office, and such device as a Secretary of State from

time to time approves, and such seal shall be deemed the public seal of the said territories, and may be kept and used by the Commissioner for the sealing of all things whatsoever that shall pass the public seal. And, until a public seal shall be provided, the seal of the Commissioner may be used as the public seal.

5. The Commissioner may make and execute in His Majesty's name and on his behalf, under the public seal, grants and dispositions of any lands which may be lawfully granted or disposed of by His Majesty within the said territories.

6. The Commissioner may, as he shall see occasion, in His Majesty's name and on his behalf, grant to any offender convicted of any crime in any Court or before any Judge or Magistrate within the said territories, a free and unconditional pardon, or a pardon subject to such conditions as may be lawfully thereunto annexed, or any respite of the execution of the sentence of any such offender for such period as to him may seem fit.

7. The Commissioner may, as he shall see occasion, in His Majesty's name and on his behalf, remit any fines, penalties, or forfeitures which may accrue or become payable to His Majesty.

8. A Secretary of State or the Commissioner, subject to the directions of a Secretary of State, may, on behalf of His Majesty, appoint for the administration of the said territories, such public officers under such designations as he may think fit, and may prescribe their duties.

The Commissioner may, upon sufficient cause to him appearing, suspend from the exercise of his office within the said territories any person exercising the same, which suspension shall continue and have effect only until His Majesty's pleasure therein shall be made known and signified to the Commissioner. And in proceeding to any such suspension, he shall observe the directions in that behalf given to him by such instructions as may hereafter be addressed to him by a Secretary of State.

9.—(1.) The Commissioner may make and proclaim Ordinances for the peace, order and good government of the said territories and of all persons within the same.

(2.) Under this Article any of the Laws and Ordinances of Hong Kong may be applied to the said territories with such modifications and adaptations as circumstances may require.

(3.) Every such Ordinance shall forthwith be transmitted to the Secretary of State unless it has been previously approved by him.

(4.) Every such ordinance shall, from and after the Proclamation thereof, or such other date as may be fixed by the Ordinance, have the force of law, unless the disallowance of such Ordinance by His Majesty shall, within the space of one year after such Proclamation, be signified to the Commissioner by the Secretary of State.

(5.) Every Ordinance which shall be disallowed by His Majesty

shall cease to be of any force or effect so soon as the disallowance thereof shall be published by the Commissioner.

10. Every Ordinance Proclamation or other public Notification under this Order shall be published in such manner as the Commissioner may direct.

11. Anything in this Order to the contrary notwithstanding, all natives resident within the walled city of Wei-hai-Wei shall continue to be under the jurisdiction of Chinese officials except so far as such jurisdiction may be inconsistent with the naval and military requirements of His Majesty, or with the peace, order, and good government of the said territories.

PART III.—JUDICIAL.

12. There shall be and there is hereby established in and for the said territories a Court styled His Majesty's High Court of Wei-hai-Wei, in this Order referred to as "the Court."

Until a Judge is appointed the High Court shall be held and constituted by the Commissioner, and thereafter by the Commissioner or the Judge, or by both sitting together.

The High Court shall be a Court of Record.

13. His Majesty may from time to time appoint a Judge under His sign manual.

He shall be a member of the Bar of England, Scotland, or Ireland.

In case of the illness of the Judge, or of his absence from the said territories or from the place where the High Court usually sits, or in any other emergency, the Commissioner may temporarily appoint a person who has held judicial office in His Majesty's service, or otherwise has legal knowledge and experience, to be Acting Judge.

14.—(1.) The Secretary of State may appoint for any district or districts of the said territories a Magistrate or Magistrates, each of whom shall hold a Court.

(2.) The Court of a Magistrate is in this Order included in the term "the Court," unless the context implies a reference to the High Court only.

(3.)* The Commissioner may from time to time by writing under his hand and seal appoint any fit person to be provisionally a Magistrate for any district of the said territories.

(4.)* Every person so provisionally appointed shall exercise the powers and perform the duties of a Magistrate according to the provisions of this Order pending the confirmation or disallowance of his appointment by the Secretary of State.

(5.)* The Commissioner shall without delay report every such provisional appointment to the Secretary of State for his confirmation or disallowance.

15. Subject to the directions of the Secretary of State, and to the provisions of this Order, the Commissioner may from time

* Sub-sections (3) (4) and (5) of Article 14 were added by the Order of 1903.

to time appoint such and so many persons to be registrars, clerks, bailiffs, interpreters, and other officers of the Court as he thinks fit, and may prescribe their duties, and may remove from office any person so appointed.

16. All jurisdiction, criminal and civil, over all persons and in all cases respectively being and arising within the territories, shall, subject to and according to the provisions of this Order, be vested in the High Court.

17. The High Court may sit at any place in the said territories as occasion requires.

18. The whole or any part of the jurisdiction and authority of the High Court for or in respect of any district may, subject to the provisions of this Order, and of any Ordinance made thereunder, be exercised by the Magistrate (if any) appointed to act for that district and being therein.

Provided as follows :—

- (1.) The High Court shall have concurrent jurisdiction in every such district, and may order any case, civil or criminal, pending before a Magistrate to be removed into the High Court, whether sitting in the district or elsewhere :
- (2.) A Magistrate, unless he is a European British subject, shall not have jurisdiction to hear or determine any case in which any accused person or defendant is not a native.

19. Subject to the other provisions of this Order the criminal and civil jurisdiction of the Court shall, as far as circumstances admit, be exercised on the principles of and in conformity with the Statute Law and other law for the time being in force in England, and with the procedure and practice of Courts of Justice and Justices of the Peace in England, according to their respective jurisdiction and authority.

For the purposes of facilitating the application of such Statute Law, the Court may construe any enactment with such alterations and modifications not affecting the substance as may be necessary to meet the circumstances of the said territories.

Except as regards acts which are or may be made offences by this or any other Order in Council applying to the said territories, or by any laws or regulations made thereunder, such acts only as would be offences if committed in England shall be deemed to be offences rendering the person committing the same liable to punishment.

Provided that in civil cases between natives the Court shall be guided by Chinese or other native law and custom, so far as any such law or custom is not repugnant to justice and morality.

Subject to the provisions of this Order and of any Ordinance made under this Order, the High Court may make rules of Court with respect to procedure in all criminal and civil matters in the High Court and in Magistrates' Courts.

20.—(1.) When a native is a party to any case, criminal or civil, the Court, if it thinks fit, may try the case with two assessors.

(2.) An assessor shall be a native, having a competent knowledge of Chinese law and custom, nominated and summoned or requested by the Court to act as assessor.

(3.) An assessor shall not have any voice in the decision of the Court, but his opinion, whether consenting or dissenting, shall be recorded in the Minutes.

PART IV.—CRIMINAL MATTERS.

21.—(1.) The High Court may award any such punishment as may be awarded by any Court of criminal jurisdiction in England for the time being.

(2.) Subject to the maximum penalties provided by law, a Magistrate shall not award imprisonment, with or without hard labour, exceeding a term of twelve months, nor any fine exceeding 400 dollars.

(3.) A Magistrate shall not try any of the following offences: Treason, murder, rape, forgery, and perjury; nor, except by direction of the High Court in writing, any offence punishable with penal servitude for seven years or upwards. Such direction may be given in any case after the accused is committed for trial before the High Court, if the High Court is of opinion that the offence will be adequately punished with such punishment as the Magistrate has power to award.

22.—(1.) A criminal prosecution is commenced by a complaint made to the Court, or by the issue of a summons or warrant by the Court of its own motion.

(2.) For the issue of a summons the complaint need not be on oath, unless the Court so requires.

(3.) A warrant may be issued if the complaint is in writing and on oath, or if the accused person does not appear on a summons, and it is proved that the summons has been served or cannot be served.

(4.) On receiving a complaint, whether on oath or not, the Court may, if it is of opinion that the complaint discloses no offence, or is otherwise unsubstantial, decline to issue any summons or warrant.

(5.) An accused person arrested on warrant shall be brought before the Court within forty-eight hours after arrest unless exceptional circumstances prevent his being so brought, and the complaint shall be heard as soon thereafter as circumstances reasonably admit. Due notice of the time and place of hearing shall be given to the prosecutor (if any), and summonses issued to the witnesses, if any.

23.—(1.) When the accused is before the Court, and the prosecutor has had notice of the time and place appointed for the hearing of the complaint, but does not appear, the Court, unless it thinks fit to adjourn the hearing, shall dismiss the complaint;

(2.) If both parties are present the Court shall proceed to hear the complaint ; and

(a.) If the offence is legally punishable, or if the Court thinks it would be adequately punished, with imprisonment not exceeding six months, or with fine not exceeding 100 dollars, the case shall be tried summarily on the complaint ;

(b.) Otherwise, the Court shall take the depositions of the prosecutor and witnesses with a view to determining whether the accused shall be tried on a charge.

(3.) The following offences are not triable summarily, that is to say : treason, murder, rape, arson, housebreaking, robbery with violence, forgery, and perjury.

24. At a summary trial the substance of the complaint shall be stated to the accused, and he shall be asked if he admits or denies the truth of the complaint. If he admits, the Court may convict him and award punishment, but may first take further evidence if it think fit. If he denies, the Court shall hear the evidence of the prosecutor and witnesses, and of the witnesses, if any, for the accused, and either discharge the accused or convict him and award punishment.

25.—(1.) At the preliminary examination of a case which must be, or may in the opinion of the Magistrate require to be, sent for trial to another Court, the procedure shall be as follows :—

(a.) The Court shall, in the presence of the accused, take the depositions on oath of those who know the facts and put them in writing ;

(b.) The accused may cross-examine each witness for the prosecution, and the witness' answers shall form part of his deposition ;

(c.) The deposition of each witness shall be read over to the witness and signed by him ;

(d.) After the evidence of the witnesses for the prosecution has been taken, the Court shall ask the accused if he wishes to make any statement or has any witnesses to call, or other evidence to adduce in his defence, and the Court shall then take his statement and the evidence of his witnesses (if any) ;

(e.) The accused shall be informed that any statement he may make may be used against him at the trial, and also that he may be sworn as a witness himself ;

(f.) The Court having heard all the evidence, shall consider the whole matter, and if it thinks that a *prima facie* case is made out against the accused, shall cause a charge, on which the accused is to be put on his trial, to be framed, and read over to the accused ;

(g.) The Court shall bind by recognisance the prosecutor and every witness to appear at the trial and give evidence ;

- (h.) If a person refuses to enter into a recognisance, the Court may send him to prison, there to remain till the trial, unless in the meantime he enters into a recognisance ;
- (i.) Until the trial the Court shall either admit the accused to bail or send him to prison for safe keeping ;
- (j.) The accused shall be entitled to a copy of the charge on which he is to be tried ;
- (k.) The complaint (if any), the depositions, the statement of the accused (if any), the charge on which the Court orders him to be tried, and the recognisances shall be carefully transmitted to the Court before which the trial is to take place.

(2.) At the preliminary examination of a case which may be tried on a charge before the same Court, the procedure above described may be varied as follows :—

After hearing so much evidence as is in the opinion of the Court sufficient to raise a strong presumption against the accused and to enable the Court to frame a charge, the Court may proceed to frame a charge and appoint a day for the trial.

(3.) When an accused person is arrested in one district in respect of an offence committed in another district, the preliminary examination may be commenced in the district in which the accused is arrested. In this case any depositions taken shall be transmitted, with the accused, to the Court of the district in which the offence was committed.

26.—(1.) The charge upon which an accused person is tried shall state the offence, with such particulars as to the time and place of the alleged offence, and the person (if any) against whom or the thing (if any) in respect of which it was committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged.

(2.) There shall be a separate charge for each offence, and every charge shall be tried separately, but if the acts form one transaction, or if the offences are of the same kind, the charges may be tried together, if the Court thinks fit.

(3.) When more persons than one are accused of the same offence, or of different offences committed in the same transaction, or where one is accused of committing an offence and another with abetting or attempting to commit that offence, they may be charged and tried together or separately, as the Court thinks fit.

(4.) The Court may alter any charge at any time, but if the alteration is likely to prejudice the accused or the prosecutor, the Court may adjourn the trial for such time as may be necessary.

(5.) No error or omission in stating the offence or the particulars shall be regarded as material unless the accused was misled by the error or omission.

(6.) When a person is charged with an offence, and the evidence proves either the commission of a minor offence or an attempt

to commit the offence charged, he may be convicted of the minor offence or the attempt.

(7.) For the purposes of the application of any statute law, a charge framed under the provisions of this Order shall be deemed to be an indictment.

27. The Court may, at any stage of the prosecution, in its discretion admit to bail a person charged with any felony, riot, or assault, but a person charged with murder shall not be admitted to bail except by or by direction of the High Court.

In all other cases the Court shall admit the accused to bail unless the Court sees good reason to the contrary.

The High Court may admit a person to bail although a Magistrate has not thought fit to do so.

28. The Court may, if it thinks fit, order a person convicted of an assault to pay to the person assaulted, by way of damages, any sum not exceeding 50 dollars.

Damages ordered to be paid may be either in addition to or in lieu of a fine, and shall be recoverable in like manner as a fine.

Where such damages are ordered an action cannot be brought for the assault.

29. The Court may from time to time postpone or adjourn any trial if it considers it necessary to do so in the interests of justice.

During the postponement or adjournment the accused may be committed to prison for safe custody, or admitted to bail, or suffered to go at large, as the Court thinks fit.

30. Where there is reasonable cause to suspect that anything, by or in respect of which any offence cognisable by the Court has been committed, is in any house or place within the jurisdiction of the Court, the Court may, by a search warrant, authorise an officer of the Court to search the house or place, and if anything searched for be found, to seize it and bring it before the Court for adjudication.

31. A warrant for apprehension or a search warrant may be issued and executed on any day at any time.

32. A sentence of death shall not be carried into effect unless confirmed by the Commissioner.

For this purpose, when the trial has been held by the Judge, he shall transmit his notes, or a copy thereof, and a report on the case to the Commissioner.

The Commissioner may commute the sentence to such punishment as he thinks proper in the circumstances or may pardon the convict.

33. The Court may order a person convicted before it to pay all or a part of the expenses of the prosecution, the amount to be specified in the order.

The Court may, when it thinks a prosecution is vexatious or frivolous, order the complainant to pay all or a part of the expenses of the prosecution and of the accused, the amount being specified in the order.

In both cases the Court may order that the whole or such portion as the Court thinks fit of the expenses so paid be paid over to the complainant or the accused, as the case may be.

34.—(1.) When a person is convicted before a Magistrate and the punishment imposed is a fine of 100 dollars or upwards or imprisonment for three months or upwards, he may appeal to the High Court.

(2.) The Magistrate shall postpone the execution of the sentence pending the appeal and shall, as on a remand, either commit the person convicted to prison for safe custody or admit him to bail, or take security for the payment of the fine (if any).

(3.) The Magistrate shall frame a statement setting out the facts and the grounds of the conviction and sentence, and any question of law and any objections alleged by the person convicted, and transmit the same, together with the notes of the evidence and any documents adduced in evidence, to the High Court.

(4.) The High Court shall either affirm or annul the conviction or amend it, or affirm or annul the sentence or vary it, or rehear the case itself or order a rehearing before the Magistrate, giving all necessary and proper directions.

35.—(1.) In each of the following cases, namely:—

(i.) Where a person is convicted before the High Court or his conviction before a Magistrate is affirmed by the High Court, and the person so convicted declares his desire to appeal to the Supreme Court, on any question of law affecting the conviction or sentence; or

(ii.) Where the High Court thinks fit to reserve for the judgment of the Supreme Court any question of law arising on the trial,—

the High Court shall frame a statement setting out the facts, and the grounds of the conviction and sentence, and the question or questions of law raised by the person convicted or by the High Court.

(2.) The High Court shall annex to that statement certified copies of the summons, indictment (if any), and proceedings, and of all documentary evidence admitted or tendered, and appearing to that Court to be material, and the depositions, the notes of the oral testimony, any statement or objections to the conviction or sentence made by the person convicted, and any argument thereon that he desires to submit to the Supreme Court, and a note of the reasons why any tendered evidence which is not transmitted appears to the Court to be immaterial.

(3.) The High Court shall forthwith send the statement and its annexes to the Supreme Court.

(4.) The High Court shall postpone the execution of the sentence pending the appeal, and shall, as on a remand, either (if necessary) commit the person convicted to prison for safe custody, or admit him to bail, with or without security, by recognisance, deposit money, or otherwise.

(5.) The Supreme Court shall hear and finally determine the matter, after considering the statement of the High Court, and hearing publicly any argument offered on behalf of the prosecution, or the person convicted.

(6.) The Supreme Court may require the High Court to make any amendment in or addition to its statement or the annexes thereto.

(7.) The judgment of the Supreme Court shall be delivered publicly.

(8.) The Supreme Court shall either affirm or annul the conviction, or amend it, and shall either affirm or annul the sentence or vary it, and shall give all necessary and proper consequential directions.

36. The Supreme Court shall not annul a conviction or sentence, or vary a sentence, on the ground—

- (i.) Of any objection which, if stated during the trial, might, in the opinion of the Supreme Court, have been properly met by amendment by the High Court; or
- (ii.) Of any error or informality which, in the opinion of the Supreme Court, did not affect the substance of the case or subject the Appellant to any undue prejudice.

37. There shall be no appeal in a criminal case to His Majesty the King in Council from a decision of the Supreme Court, except by special leave of His Majesty in Council.

38. The Commissioner may by general order prescribe the manner in which and the prisons in which punishments are to be carried into execution, and may make rules for the government of the prisons and of all persons therein.

39.—(1.) When an offender is sentenced to imprisonment and the High Court thinks it expedient that the sentence be carried into effect within His Majesty's dominions, the place shall be either Hong Kong or a place in some other part of His Majesty's dominions the Government whereof consents that offenders may be sent thither under this Article.

(2.) The High Court may, by warrant under the hand of the Judge, cause the offender to be sent to such place as aforesaid, in order that the sentence may be carried into effect accordingly.

(3.) The warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person named therein, and to carry him and deliver him up at the place named, according to the warrant.

40. "The Fugitive Offenders Act, 1881," * and "The Colonial Prisoners Removal Act, 1884," † shall apply to the said territories as if they were part of His Majesty's dominions, subject as follows :—

- (a.) The Commissioner is hereby substituted for the Governor or Government of a British possession ;

* 44 & 45 Vict. c. 69.

† 47 & 48 Vict. c. 31.

- (b.) The High Court is hereby substituted for a Superior Court, and for a Magistrate of a British possession ;
- (c.) For the purposes of the said Act of 1881, and of this Article in relation thereto, the said territories and Hong Kong shall be deemed to be one group of British possessions.

41.—(1.) In cases of murder or manslaughter if either the death, or the criminal act which wholly or partly caused the death, happened within the said territories, the High Court shall have the like jurisdiction over any person who is charged either as the principal offender, or as accessory before the fact to murder, or as accessory after the fact to murder or manslaughter, as if both the criminal act and the death had happened within that jurisdiction.

(2.) In the case of any offence committed on the high seas, or within the Admiralty jurisdiction, by any person on board a British ship, or by any British subject on board a foreign ship to which he did not belong, the High Court shall, subject to the provisions of this Order, have jurisdiction as if the offence had been committed within the said territories. In cases tried under this Article no different sentence can be passed from the sentence which could be passed in England if the offence were tried there.

(3.) The foregoing provisions of this Article shall be deemed to be adaptations, for the purposes of this Order and of "The Foreign Jurisdiction Act, 1890," of the following enactments, that is to say :—

"The Admiralty Offences (Colonial) Act, 1849." *

"The Admiralty Offences (Colonial) Act, 1860." †

"The Merchant Shipping Act, 1894," ‡ Section 686.

42. When a British subject, being within the said territories, is accused of having committed any offence on board a British or Chinese ship at a distance of not more than 100 miles from the coast of China, or on board a ship not lawfully entitled to claim the protection of the flag of any State at such a distance as aforesaid, he may be apprehended, charged, and tried, in like manner as if the offence had been committed within the said territories.

The High Court, on receiving satisfactory information that any soldier, sailor, marine, or other person belonging to any of His Majesty's naval or military forces has deserted therefrom, and has concealed himself in any British ship at such distance as aforesaid, may issue a warrant for the search for and apprehension of such deserter, and, on being satisfied on investigation that any person so apprehended is such a deserter, shall cause him to be, with all convenient speed, taken and delivered over to the officer in command of a vessel of war of His Majesty, or to the nearest military station of His Majesty's forces.

43. Where the High Court issues a summons or warrant against any person on a charge of an offence committed on board of or

* 12 & 13 Vict. c. 96.

† 23 & 24 Vict. c. 122.

‡ 57 & 58 Vict. c. 60.

in relation to any ship, other than a ship enjoying immunity from civil process, then, if it appears to the Court that the interests of public justice so require, that Court may issue a warrant or order for the detention of the ship, and may cause the ship to be detained accordingly, until the charge is heard and determined, and the order of the Court thereon is fully executed, or for such shorter time as the Court thinks fit; and the Court shall have power to make all such orders as appear to it necessary or proper for carrying this provision into effect.

44. If any person—

- (i.) Publicly derides, mocks, or insults any religion established or observed within the said territories;
or
- (ii.) Publicly offers insult to any religious service, feast, or ceremony, or to any place of worship, tomb, or sanctuary belonging to any religion established or observed within the said territories, or belonging to the ministers or professors thereof; or
- (iii.) Publicly and wilfully commits any act tending to bring any religion established or observed within the said territories, or its ceremonies, mode of worship, or observances, into hatred, ridicule, or contempt, and thereby to provoke a breach of the public peace; he shall be guilty of an offence, and on conviction thereof, liable to imprisonment not exceeding two years, with or without hard labour, and with or without a fine not exceeding 500 dollars, or a fine alone not exceeding 500 dollars.

45. If any person—

- (i.) Does any act calculated to excite tumult or disorder, or to excite enmity between British subjects, Chinese subjects, and foreign subjects, or any of them, or to excite opposition to the lawful authority of His Majesty within the said territories; or,
- (ii.) Without His Majesty's authority levies war, or takes part in any operation of war, or aids or abets any person in carrying on war, insurrection, or rebellion against the Emperor of China, or against any Government exercising authority in any part of the dominions of the Emperor of China, he shall on conviction be liable to imprisonment for any term not exceeding two years, with or without hard labour, or to a fine not exceeding five thousand dollars, or to both imprisonment and fine.

46.—(1.) Where a person has been convicted under the last preceding article, he shall in addition to the punishments therein mentioned, and without further proceedings, be liable to deportation; and the Court may order that he be deported to such place as the Commissioner may direct, but every such order shall be subject to confirmation by the Commissioner.

(2.) The place shall be a place the Government thereof consents to the reception therein of the person to be deported.

(3.) The person to be deported shall be detained in custody until a fit opportunity for his deportation occurs.

(4.) He shall, as soon as is practicable, and either after execution of the sentence or while it is in course of execution, be embarked in custody under the warrant of the Commissioner on board one of His Majesty's vessels of war, or, if there is no such vessel available, then on board any British or other fit vessel bound to the place of deportation.

(5.) The warrant shall be sufficient authority to the commander or master of the vessel to receive and detain the person therein named, and to carry him to and deliver him up at the place named according to the warrant.

(6.) If any master of a British ship, after a reasonable remuneration for the conveyance of a deported person has been tendered or paid to him, refuses or fails to carry such person to the place named, he shall be liable to a penalty not exceeding 500 dollars.

(7.) The Court may order the person to be deported to pay all or any part of the expenses of his deportation. Subject thereto, the expenses of deportation shall be defrayed in such manner as the Secretary of State, with the concurrence of the Treasury, may direct.

(8.) The Commissioner shall forthwith report to the Secretary of State any order of deportation made or confirmed by him, and the grounds thereof.

(9.) If any person deported under this Order returns to the said territories without permission in writing of the Secretary of State (which permission the Secretary of State may give), he shall be liable to a fine not exceeding one thousand dollars; and he shall also be liable to be forthwith again deported.

47. The Court shall have all the powers appertaining to the office of Coroner in England, provided as follows:—

(a.) Where a person is charged with causing the death, the Court may proceed forthwith with the preliminary examination;

(b.) When no person is charged with causing the death, the Court shall, without any jury, hold an inquest, taking the depositions of those who know the facts. If, during or after the inquest, any person is so charged, the depositions shall be read over in the presence of the witnesses and of the accused, who shall be entitled to cross-examine each witness, and the procedure shall be as in other cases of preliminary examination. If after the inquest the Court does not see fit to cause any person to be charged, the Court shall send a copy of the depositions to the Commissioner, together with a report as to the cause of the death.

PART V.—CIVIL MATTERS.

48.—(1.) Every civil proceeding in the Court shall be taken by action, and not otherwise, and shall be designated an action.

(2.) For the purposes of any statutory enactment or other provision applicable under this Order to any civil proceeding in the Court, an action under this Order shall comprise and be equivalent to a suit, cause, or petition, or to any civil proceeding, howsoever required by any such enactment or provision to be instituted or carried on.

49.—(1.) Every action shall be heard and determined in a summary way.

(2.) Every application in the course of an action may be made to the Court orally, and without previous formality, unless in any case the Court otherwise directs, or the Rules of Court otherwise provide.

(3.) No action or proceeding shall be treated by the Court as invalid on account of any technical error or mistake in form or in words.

(4.) All errors and mistakes may be corrected, and times may be extended, by the Court in its discretion, and on such terms as the Court thinks just.

50.—(1.) The sittings of the Court for the hearing of actions shall, where the amount of business so requires, be held on stated days.

(2.) The sittings shall ordinarily be public, but the Court may, for reasons recorded in the Minutes, hear any particular case in the presence only of the parties and their legal advisers and the officers of the Court.

51. Every action shall commence by a summons, issued from the Court, on the application of the Plaintiff, and served on the Defendant (in this Order referred to as an original summons).

52. In each Court there shall be kept a book, called the Action Book, in which all actions brought in the Court shall be entered, numbered consecutively in each year, in the order in which they are commenced, with a short statement of the particulars of each action, and a note of the several proceedings therein.

53.—(1.) An original summons shall not be in force for more than twelve months from the day of its date (including that day).

(2.) If any Defendant named therein is not served therewith, the Plaintiff may, before the end of the twelve months, apply to the Court for renewal thereof.

(3.) The Court, if satisfied that reasonable efforts have been made to serve the Defendant, or for other good reason, may order that the summons be renewed for six months from the date of renewal, and so, from time to time, during the currency of the renewed summons.

(4.) The summons shall be renewed by being re-sealed with the seal of the Court, and a note being made thereon by the Court or its officer, stating the renewal and the date thereof.

(5.) A summons so renewed shall remain in force and be available to prevent the operation of any statute of limitation, and for all other purposes, as from the date of the original summons.

(6.) The production of a summons purporting to be so renewed shall be sufficient evidence of the renewal and of the commencement of the action, as of the date of the original summons, for all purposes.

54. If an action is not proceeded with and disposed of within twelve months from service of the original summons, the Court may, if it thinks fit, without application by any party, order the same to be dismissed for failure to proceed.

55. The Court may, at any time, if it thinks fit, either on or without application of a Defendant, order the Plaintiff to put in further particulars of his claim.

56. There shall ordinarily be no written pleadings; but the Court may at any time, if it thinks fit, order the Plaintiff to put in a written statement of his claim, or a Defendant to put in a written statement of his defence.

57. The evidence on either side may, subject to the direction of the Court, be wholly or partly oral, or on affidavit or by deposition.

58.—(1.) Notwithstanding anything in this Order, the Court (for reasons recorded in the Minutes) may at any time do any of the following things as the Court thinks just:—

- (i.) Defer or adjourn the hearing or determination of any action, proceeding, or application;
- (ii.) Order or allow any amendment of any pleading or other document;
- (iii.) Appoint or allow a time for, or enlarge or abridge the time appointed or allowed for, or allow further time for, the doing of any act or the taking of any proceeding.

(2.) Any Order within the discretion of the Court may be made on such terms respecting time, costs, and other matters, as the Court thinks fit.

59. Subject to the provisions of this Order and any Rules of Court, the costs of and incident to all proceedings in the Court shall be in the discretion of the Court.

60.—(1.) All Orders of the Court shall, if not made in writing, be drawn up in writing and filed with the papers in the action.

(2.) The seal of the Court shall be affixed to every order, which shall then be part of the record in the action.

(3.) The order shall bear the date of the day of the delivery of the decision on which the order is founded.

(4.) All money ordered by the Court to be paid by any person shall be paid into the office of the Court, unless the Court otherwise directs.

61.—(1.) On proof of great urgency or other peculiar circumstances, after an action is brought, the Court may, if it thinks fit, on the application of a plaintiff, or of its own motion, make

an order for stopping the clearance of, or for the arrest and detention of, a ship about to leave the said territories, other than a ship enjoying immunity from civil process.

(2.) The Court may at any time, on reasonable cause shown, discharge or vary the order.

62.—(1.) Any agreement in writing between any persons to submit present or future differences to arbitration, whether an arbitrator is named therein or not, may be filed in the Court by any party thereto, and unless a contrary intention is expressed therein, shall be irrevocable, and shall have the same effect as an order of the Court.

(2.) Every such agreement is in this Order referred to as a submission.

(3.) If any action is commenced in respect of any matter covered by a submission, the Court, on the application of any party to the action, may by order stay the action.

63.—(1.) The High Court shall have, with respect to all persons within the said territories, all such jurisdiction in bankruptcy as for the time being belongs to the High Court in England.

(2.) Magistrates may exercise such jurisdiction in bankruptcy as may be prescribed by Ordinances, and subject thereto by Rules of Court: provided that a Magistrate shall not exercise any bankruptcy jurisdiction unless he is so authorised by the Commissioner.

(3.) Proceedings in bankruptcy shall be originated by a summons to the debtor to show cause why he should not be adjudicated bankrupt, or by a summons issued by the debtor himself to his creditor, or any of his creditors, to show cause why he, the debtor, should not be adjudicated bankrupt.

(4.) On and after the issue of such summons, the High Court may stay any proceedings pending in any Court in respect of any debt provable in bankruptcy, or may allow the proceedings to continue on such terms as the High Court thinks fit.

(5.) On or after the issue of such summons, the High Court may appoint a receiver or manager of the property or business of the debtor.

64.—(1.) The High Court shall have Admiralty jurisdiction for and within the said territories, and over vessels and persons coming within the same.

(2.) The following enactments of "The Colonial Courts of Admiralty Act, 1890,"* that is to say, section 2, sub-sections (2) to (4); sections 5 and 6; section 16, sub-section (3); shall apply to the High Court as if that Court were a Colonial Court of Admiralty, and as if the said territories were a British possession; and for the purpose of this application the expressions "judgment" and "appeal" shall in the enactments so applied have the same respective meanings as are assigned thereto in section 15 of the said Act.

65.—(1.) The High Court shall, as far as circumstances admit,

* 53 & 54 Vict. c. 27.

have, for and within the said territories, all such jurisdiction relative to the custody and management of the persons and estates of lunatics, as for the time being belongs to the Lord Chancellor or other Judge or Judges in England intrusted by virtue of His Majesty's Sign Manual with the care and commitment of the custody of the persons and estates of lunatics.

66.—(1.) The High Court shall, as far as circumstances admit have for and within the said territories all such jurisdiction, except the jurisdiction relative to dissolution, or nullity, or jactitation of marriage, as for the time being belongs to the High Court in England.

(2.) The High Court shall have the like jurisdiction in relation to native marriages as would be exercised by any Chinese Court if His Majesty had not acquired power and jurisdiction in the said territories, and subject to the provisions of any Ordinance, may exercise the same in accordance with Chinese law and custom so far as consistent with justice and morality, observing, nevertheless, the procedure of the High Court, so far as is practicable.

67.—(1.) The High Court shall be a Court of Probate, and, as such, shall, so far as circumstances admit, have all such jurisdiction as for the time being belongs to the High Court in England in cases of probate and administration of estates.

(2.) The Commissioner may by Ordinance confer on Magistrates or on any Magistrate named or designated in the Ordinance in this behalf, jurisdiction in cases of probate and administration.

(3.) In all cases where the deceased was a native, effect shall be given to Chinese law and custom so far as the same are consistent with justice.

Appeal in Civil Cases.

68.—(1.) Where a civil action in the High Court involves the amount or value of 500 dollars or upwards, any party aggrieved by any decision of the Court in the action shall have the right to appeal to the Supreme Court against the same on the following conditions, namely—

(i.) The appellant shall give security to the satisfaction of the Judge, and to such amount as the Judge thinks reasonable, not exceeding 2000 dollars, for prosecution of the appeal, and for payment of any costs that may be ordered by the Supreme Court on the appeal to be paid by the appellant to any person.

(ii.) The appellant shall pay to the High Court such sum as the Judge thinks reasonable, to defray the expense of the making up and transmission to the Supreme Court of the record.

(2.) In any civil case the High Court may, if it thinks fit, give leave to appeal on the conditions aforesaid.

(3.) In any civil case the Supreme Court may give leave to appeal on such terms as it thinks fit.

69.—(1.) After three months from the date of a decision of the High Court, an appeal against it shall not lie except by leave of the Supreme Court.

(2.) After six months from the date of a decision of the High Court, application for leave to appeal against it shall not be entertained by the Supreme Court.

70.—(1.) When a person ordered to pay money, or to do any other thing, appeals, the Judge shall direct either that the decision appealed from be carried into execution, or that the execution thereof be suspended pending the appeal, as he thinks fit.

(2.) If the Judge directs the decision to be carried into execution, the person in whose favour it is given shall, before the execution of it, give security to the satisfaction of the Judge for performance of any order to be made on appeal.

(3.) If the Judge directs the execution of the decision to be suspended, the person against whom it is given shall, before an order for suspension is made, give security to the satisfaction of the Judge for performance of such order as shall be made on appeal.

71.—(1.) The appellant shall file an appeal motion-paper in the High Court.

(2.) He may at the same time file any argument which he desires to submit to the Supreme Court in support of the appeal.

(3.) The motion-paper and the argument (if any) shall be served on such persons as respondents as the High Court directs.

72.—(1.) A respondent may, within seven days after service, file in the High Court a motion-paper of cross appeal (if any), and such argument as he desires to submit to the Supreme Court on the appeal and cross appeal (if any).

(2.) Copies thereof shall be furnished by the High Court to such persons as the Court thinks fit.

73.—(1.) On the expiration of such seven days, the High Court shall, without the application of any party, make up the record of appeal, which shall consist of the writ of summons, statements of claim and defence (if any), orders, and proceedings, all written and documentary evidence admitted or tendered, or a certified copy thereof, and the notes of the oral evidence, the appeal and cross appeal motion-paper and the arguments (if any).

(2.) The several pieces shall be fastened together, consecutively numbered; and the whole shall be secured by the seal of the Judge, and be forthwith forwarded by him to the Supreme Court.

(3.) The Judge shall not, except for some special cause, take on himself the responsibility of the charge, or of the transmission to the Supreme Court, of original letters or documents produced in evidence. They shall be returned to the parties producing them; and they shall produce the originals, if required by the Supreme Court, at or before the hearing of the appeal.

74.—(1.) After the record of appeal is transmitted, until the appeal is disposed of, the Supreme Court shall be in exclusive possession of the whole action, as between the parties to the appeal.

(2.) Every application in the action, as between the parties

to the appeal, shall be made to the Supreme Court, and not to the High Court; but any application may be made through the High Court.

75.—(1.) The Supreme Court shall, after receiving the record of appeal, fix a day for the hearing of the appeal, and shall give notice thereof through the High Court to the parties to the appeal, such a day being fixed as will allow of the parties attending in person, or by counsel or solicitor if they so desire.

(2.) But if all the separate parties to an appeal appear in person at Hong Kong, or appoint persons there to represent them as their counsel or solicitors in the appeal, and cause the appearance or appointment to be notified to the Supreme Court, the Supreme Court may dispose of the appeal without being required to give notice through the High Court to the parties to the appeal, of the day fixed for the hearing thereof.

76. The Supreme Court may, if it thinks fit, require a party to an appeal to appear personally before it on the hearing of the appeal, or on any occasion pending the appeal.

77.—(1.) The Supreme Court may, from time to time, make any order necessary for determining the real question in controversy in the action, as among the parties to the appeal, and for that purpose may amend any defect or error in the record of appeal, and may enlarge the time for any proceeding except as otherwise by this Order expressly provided.

(2.) The Supreme Court may direct the High Court to inquire into and certify its finding on any question, as between the parties to the appeal, or any of them, which the Supreme Court thinks fit to determine before final judgment is given in the appeal.

(3.) The powers of the Supreme Court under this Order may be exercised by the Supreme Court notwithstanding that the appeal is brought against part only of the decision of the High Court; and those powers may be exercised in favour of all or any of the parties to the action, although they have not appealed from, or complained of, the decision.

(4.) Generally, the Supreme Court shall, as among the parties to the appeal, have as full jurisdiction over the whole action as if it had been originally instituted and prosecuted in the Supreme Court by parties subject to the original jurisdiction of the Supreme Court.

(5.) The Supreme Court may, if it thinks fit, remit the action to the High Court, to be reheard, or to be otherwise dealt with as the Supreme Court directs.

(6.) The appeal shall be determined by the Supreme Court according to the law to be administered under this Order by the High Court.

78.—(1.) Notwithstanding anything in this Order, an appeal to the Supreme Court shall not lie from an order of the High Court, made on the application of one party without notice to the other party.

(2.) But, if any person thinks himself aggrieved by such an

order, he may, on notice to the other party, apply to the High Court to vary or discharge the order, and an appeal shall lie from the decision on that application.

79. Subject to the provision of this Order and of any Ordinance made under this Order, the Supreme Court may, with the consent of the Commissioner and with the approval of the Secretary of State, make Rules of Court with respect to the hearing of appeals under this Order.

80. For purposes of appeal in civil cases to His Majesty the King in Council, a decision of the Supreme Court on appeal under this Order shall have the effect of a decision of that Court under its ordinary primary jurisdiction.

PART VI.—MISCELLANEOUS.

81. A Land Commission is hereby constituted for the said territories, consisting of the Judge and one other Commissioner who shall be appointed and may be removed by His Majesty's Commissioner.

The Land Commission shall deal with such questions relating to the titles, tenures, occupancy, and assessment of lands in the said territories as may be assigned for their determination by any Ordinance, which may also prescribe the powers, duties, and proceedings of the Commission.

82.—(1.) All the water area included within the lines hereinafter described shall be deemed to be Admiralty waters and shall be solely under the control of the Naval Authorities, that is to say :—

A line from the Eastern Point of the Hu An Lok Rocks to Itau ; thence in the direction of Flagstaff Point, until the Eastern Point of Weigall Cove bears North " true " ; thence to within a cable's length of the shore at that point ; thence following the direction of the coast line and islands at a distance of one cable until Outer Island bears North by West ; thence to Kwoa Pu, the Northern Point of Liu Kung Tau ; thence along the shore of Liu Kung Tau to the westward and southward to the Eastern Point of the Hu An Lok Rocks.

(2.) The Lords Commissioners of the Admiralty may from time to time, with the concurrence of the Secretary of State for the Colonies, alter the limits of the Admiralty waters, and such alteration shall be carried into effect by Ordinance as provided by Article 9 of this Order in Council.

(3.) The Naval Commander-in-Chief will make such regulations as will permit of the use of Admiralty waters by mercantile vessels, so far as is necessary.

83. The Commissioner may make Rules of Court and prescribe forms of procedure as to all civil and criminal proceedings and the fees to be taken therein.

All such Rules shall be transmitted by the Commissioner to the Secretary of State, for his approval, and, so far as they relate to fees, for the approval of the Treasury, and until disallowance by him shall have full force and effect.

84. Not later than the 31st March in each year, the Commissioner shall transmit to the Secretary of State a report on the operation of this Order so far as relates to judicial affairs for the year ending the 31st December then last, showing the number and nature of the proceedings, criminal and civil, taken in the Courts under this Order, and the result thereof and the number and amount of fees received, and such other information, and being in such form, as the Secretary of State from time to time directs.

85. From and after the commencement of this Order, the Orders in Council relating to the exercise of His Majesty's jurisdiction in China shall cease to have any effect in the territories within the limits of this Order, with such savings and exceptions (if any) as may be made by any Proclamation issued by the Commissioner before the commencement of this Order.

86. This Order shall commence and take effect as follows :—

As to the appointment of the Commissioner or other officer, the making of Ordinances or Rules, and the issue of any instructions, proclamations or notifications, immediately from and after the passing of this Order.

As to all other matters and provisions comprised and contained in this Order, from and after the expiration of one month after this Order is first publicly exhibited in the said territories.

87. This Order may be cited as "The Wei-hai-Wei Order in Council, 1901."

A. W. FitzRoy.

4. Cyprus.

ORDER IN COUNCIL PROVIDING FOR THE GOVERNMENT OF THE ISLAND OF CYPRUS.

At the Court at Balmoral, the 14th day of September, 1878.

PRESENT :

The Queen's Most Excellent Majesty.

His Royal Highness Prince Leopold.

Marquess of Lorne.

Mr. Secretary Cross.

Sir Thomas Myddelton-Biddulph.

Whereas, it is expedient to make provision for the exercise of the power and jurisdiction vested by treaty in Her Majesty the Queen in and over the Island of Cyprus :

Now, therefore, Her Majesty, by virtue of the powers in this

behalf by the Foreign Jurisdiction Acts, 1843 to 1878,* or otherwise in Her vested, is pleased by and with the advice of Her Privy Council to Order, and it is hereby ordered, as follows :—

1. There shall be a High Commissioner and Commander-in-Chief (hereinafter called “the High Commissioner”) in and over the said Island of Cyprus (hereinafter called “the said Island”), and the person who shall fill the said office of High Commissioner shall be from time to time appointed by commission under Her Majesty’s Sign Manual and Signet.

2. The High Commissioner shall administer the government of the said Island in the name and on behalf of Her Majesty, and shall do and execute in due manner all things that shall belong to his said command and to the trust thereby reposed in him, according to the several powers and authorities granted or appointed to him by virtue of this Order, and of such Commission as may be issued to him under Her Majesty’s Sign Manual and Signet, and according to such instructions as may from time to time be given to him, under Her Majesty’s Sign Manual and Signet or by Order of Her Majesty in Council, or by Her Majesty through one of Her Principal Secretaries of State, and according to such laws and ordinances as are or shall hereafter be in force in the said Island.

3. The High Commissioner shall have an official seal bearing the style of his office, and such device as one of Her Majesty’s principal Secretaries of State from time to time approves, and such seal shall be deemed the public seal of the said Island, and may be kept and used by the High Commissioner for the sealing of all things whatsoever that shall pass the seal of the said Island. And until a public seal shall be provided for the said Island, the seal of the High Commissioner may be used as the public seal of the said Island for sealing all things that shall pass the said seal.

4-19 * * * [*Articles 4 to 19 revoked by Order in Council of November 30, 1882, printed at p. 341 below.*]

20. The High Commissioner may make and execute in Her Majesty’s name and on Her behalf, under the public seal of the said Island, grants and dispositions of any lands which may be lawfully granted or disposed of by Her Majesty within the said Island.

21. The High Commissioner may constitute and appoint all such Judges, Justices of the Peace, and other necessary officers in the said Island as may lawfully be appointed by Her Majesty, all of whom shall hold their offices during Her Majesty’s pleasure.

22. The High Commissioner may, as he shall see occasion, in Her Majesty’s name and on Her behalf, grant to any offender convicted of any crime in any Court, or before any Judge, Justice, or Magistrate within the said Island, a free and unconditional pardon, or a pardon subject to such conditions as may at any time be lawfully thereunto annexed, or any respite of the execution of the sentence of any such offender for such period as to him may seem fit.

* 6 & 7 Vict. c. 94 ; 29 & 30 Vict. c. 87 ; 38 & 39 Vict. c. 85 ; 41 & 42 Vict. c. 67 ; now repealed and consolidated by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

23. The High Commissioner may, as he shall see occasion, in Her Majesty's name and on Her behalf, remit any fines, penalties, or forfeitures which may accrue or become payable to Her, provided the same do not exceed the sum of £50 sterling in any one case, and may suspend the payment of any such fine, penalty, or forfeiture exceeding the said sum of £50, until Her Majesty's pleasure thereon shall be made known and signified to him.

24. The High Commissioner may, upon sufficient cause to him appearing, suspend from the exercise of his office within the said Island any person exercising the same, which suspension shall continue and have effect only until Her Majesty's pleasure therein shall be made known and signified to the High Commissioner. And in proceeding to any such suspension, he is to observe the directions in that behalf given to him by any such instructions under Her Majesty's Sign Manual and Signet as may be hereafter addressed to him.

25. There shall be in the said Island, for the purpose of advising the High Commissioner, an Executive Council, which shall be composed of such persons and constituted in such manner as may be directed by any instructions which may from time to time be addressed to the High Commissioner by Her Majesty, under Her Sign Manual and Signet, and all such persons shall hold their places in the said Council during Her Majesty's pleasure; and the said Executive Council shall observe such rules in the conduct of business as may from time to time be contained in any such instructions as aforesaid.

26. In the event of the death, incapacity, removal, or absence from the said Island of the High Commissioner for the time being, all and every the powers and authorities herein granted to him shall, until Her Majesty's further pleasure is signified therein, be vested in such person as may be appointed to administer the same by any instrument under Her Majesty's Sign Manual and Signet; or if there be not in the Island any person so appointed, then in the senior military officer for the time being in command of Her Majesty's regular troops in the said Island.

27. The following Orders of Her Majesty the Queen in Council, that is to say, the Order of the 12th day of December, 1873,* for the regulation of consular jurisdiction in the dominions of the Sublime Porte; the Order of the 13th day of May, 1875,† for the regulation of hospital dues levied on British shipping within the said dominions; and the Order of the 26th day of October, 1875,‡ amending the said Order of the 12th day of December, 1873,* shall cease to have any force and effect in the Island of

* Printed in Statutory Rules and Orders Revised (1st Edition), Vol. 3, p. 587. Repealed by "The Ottoman Order in Council, 1899," printed below under the sub-title "Turkey."

† Printed below under the sub-title "Turkey."

‡ Published in the "London Gazette," November 2, 1875, p. 5163. Revoked by Order of February 23, 1891; printed in Statutory Rules and Orders, 1891, p. 300. The 1891 Order was repealed by "The Ottoman Order in Council, 1899," printed below under the sub-title "Turkey."

Cyprus from and after a day to be named in a proclamation to be issued in the said Island by authority of the High Commissioner, with such saving and exceptions (if any) as may be contained in such proclamation.

28. This Order shall commence and have effect as follows :—

- (a.) As to the appointment of the High Commissioner, and the issue of any instructions immediately from and after the making of this Order.
- (b.) As to all other matters and provisions comprised and contained in this Order immediately from and after a day to be named in any proclamation to be issued in the said Island by authority of the High Commissioner.*

And this Order shall remain in force until the same shall be revoked or altered by Her Majesty with the advice of Her Privy Council.

And the most Honourable the Marquis of Salisbury and the Right Honourable Viscount Cranbrook, two of Her Majesty's Principal Secretaries of State, and the Lords Commissioners of the Treasury are to give the necessary directions herein as to them may respectively appertain.

C. L. Peel.

THE CYPRUS NEUTRALITY ORDER IN COUNCIL, 1881.

At the Court at Windsor, the 18th day of May, 1881.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.

Lord Steward.

Earl of Northbrook.

Whereas it is expedient to make provision for the regulation of the conduct of the inhabitants of Cyprus and other persons therein residing during the existence of hostilities between States with which Her Majesty is at peace, and for the control by the High Commissioner over recruiting in Cyprus for the service of any State :

It is hereby ordered by Her Majesty, by virtue and in exercise of the powers in their behalf by the Foreign Jurisdiction Acts, 1843 to 1875,† or otherwise in Her Majesty vested, and by and with the advice of the Privy Council, as follows :—

* The High Commissioner by Proclamation, dated October 7, 1878, named that day for the commencement of this Order.

† 6 & 7 Vict. c. 94 ; 29 & 30 Vict. c. 87 ; 38 & 39 Vict. c. 85 ; now repealed and consolidated by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

*Preliminary.**Short Title.*

1. This Order in Council may be cited for all purposes as "The Cyprus Neutrality Order in Council, 1881."

Commencement of Order in Council.

2. This Order in Council shall come into operation immediately on the publication thereof in the Cyprus Official Gazette.*

*Recruiting in Time of Peace Abroad.**Power to prohibit or permit Recruiting.*

3. If any person is within the Island of Cyprus obtaining or attempting to obtain recruits for the service of any State in any capacity, the High Commissioner may by order in writing, signed by the person acting as Chief Secretary to the Government of Cyprus, either prohibit such person from so doing, or permit him to do so, subject to any conditions which the High Commissioner thinks fit to impose.

Power to impose Conditions.

4. The High Commissioner may from time to time, by general order notified in the Official Gazette of Cyprus, either prohibit recruiting for the service of any State, or impose upon such recruiting any conditions which he thinks fit.

Power to rescind or vary Orders.

The High Commissioner may rescind or vary any Order made under this Order in Council, in such manner as he thinks fit.

Penalty on Recruiting or aiding in Recruiting in violation of Prohibition.

5. Whoever in violation of the prohibition of the High Commissioner, or of any condition subject to which permission to recruit may have been accorded—

- (a) induces or attempts to induce any person to accept or agree to accept or to proceed to any place with a view to obtaining any commission or employment in the service of any State ; or
- (b) knowingly aids in the engagement of any person so induced by forwarding or conveying him, or by advancing money, or in any other way whatever, shall be guilty of an offence against this Order in Council, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the Court.

* This Order was published in the Cyprus Gazette, June 17, 1881.

*Illegal Enlistments in Time of War Abroad.**Penalty on Enlistment in Service of State.*

6. If any person not having the licence of Her Majesty being within the Island of Cyprus, and being a native of Cyprus or domiciled there, accepts or agrees to accept any commission or engagement in the military or naval service of any State at war with any State which is at peace with Her Majesty, and which is in this Order hereinafter termed a friendly State, or whether a native of Cyprus or domiciled there or not, induces any other person to accept or agree to accept any such commission or engagement—

He shall be guilty of an offence against this Order in Council, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the Court.

Penalty on inducing any Person to leave Cyprus with intent to serve a State.

7. If any person not having the licence of Her Majesty, and being within the Island of Cyprus, induces any other person to quit or to go on board any ship with a view of quitting Cyprus, with intent to accept any commission or engagement in the military or naval service of any State at war with a friendly State—

He shall be guilty of an offence against this Order in Council, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the Court.

Penalty on embarking Persons under false Representations as to Service.

8. If any person within the Island of Cyprus induces any other person to quit the Island of Cyprus, or to embark on any ship within the ports or waters of Cyprus, under a misrepresentation or false representation of the service in which such person is to be engaged, with the intent or in order that such person may accept or agree to accept any commission or engagement in the military or naval service of any State at war with a friendly State—

He shall be guilty of an offence against this Order in Council, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the Court.

Penalty on taking illegally enlisted Persons on board Ship.

9. If the master or owner of any ship, without the licence of Her Majesty, knowingly either takes on board or engages to take on board, or has on board such ship within the ports or waters of Cyprus, any of the following persons in this Order in Council referred to as illegally enlisted persons ; that is to say :—

- (1.) Any person who, being a native of Cyprus or domiciled there, has within the Island of Cyprus and without the licence of Her Majesty accepted or agreed to accept any commission or engagement in the military or naval service of any State at war with any friendly State ;

- (2.) Any person who has been induced to embark under a misrepresentation or false representation of the service in which such person is to be engaged, with the intent or in order that such person may accept or agree to accept any commission or engagement in the military or naval service of any State at war with a friendly State ;

such master or owner shall be guilty of an offence against this Order in Council, and the following consequences shall ensue ; that is to say :—

- (1.) The offender shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the Court ; and
- (2.) All illegally enlisted persons shall immediately on the discovery of the offence be taken on shore, and shall not be allowed to return to the ship.

Illegal Shipbuilding and Illegal Expeditions.

Penalty on Illegal Shipbuilding and Illegal Expeditions.

10. If any person, without the licence of Her Majesty and within the Island of Cyprus, does any of the following acts ; that is to say :—

- (1.) Builds or agrees to build, or causes to be built, any ship with intent or knowledge, or having reasonable cause to believe, that the same shall or will be employed in the military or naval service of any State at war with any friendly State ; or
- (2.) Issues or delivers any commission for any ship with intent or knowledge, or having reasonable cause to believe, that the same shall or will be employed in the military or naval service of any State at war with any friendly State ; or
- (3.) Equips any ship with intent or knowledge, or having reasonable cause to believe, that the same shall or will be employed in the military or naval service of any State at war with any friendly State ; or
- (4.) Despatches or causes or allows to be despatched any ship with intent or knowledge, or having reasonable cause to believe, that the same shall or will be employed in the military or naval service of any State at war with any friendly State,

such person shall be deemed to have committed an offence against this Order in Council, and the following consequences shall ensue :—

- (1.) The offender shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the Court.
- (2.) The ship in respect of which any such offence is committed, and her equipment, shall be forfeited to Her Majesty, provided that a person building, causing to

be built, or equipping a ship in any of the cases aforesaid, in pursuance of a contract made before the commencement of such war as aforesaid, shall not be liable to any of the penalties imposed by this section in respect of such building or equipping if he satisfies the conditions following (that is to say) :—

- (1.) If forthwith upon a proclamation of neutrality being issued by Her Majesty he gives notice to the High Commissioner that he is so building, causing to be built, or equipping such ship, and furnishes such particulars of the contract and of any matters relating to or done or to be done under the contract as may be required by the High Commissioner.
- (2.) If he gives such security, and takes and permits to be taken such other measures, if any, as the High Commissioner may prescribe for ensuring that such ship shall not be despatched, delivered, or removed, without the licence of Her Majesty, until the termination of such war as aforesaid.

Presumption as to Evidence in case of Illegal Ship.

11. Where any ship is built by order or on behalf of any State, when at war with a friendly State, or is delivered to or to the order of such former State, or any person who to the knowledge of the person building is an agent of such former State, or is paid for by such former State or such agent, and is employed in the military or naval service of such former State, such ship shall, until the contrary is proved, be deemed to have been built with a view to being so employed, and the burden shall lie on the builder of such ship of proving that he did not know that the ship was intended to be so employed.

Penalty on aiding the Warlike Equipment of Ships.

12. If any person without the licence of Her Majesty and within the Island of Cyprus, by adding to the number of guns or by changing those on board for other guns or by the addition of any equipment for war, increases or augments or procures to be increased or augmented or is knowingly concerned in increasing or augmenting the warlike force of any ship which at the time of her being within the ports or waters of Cyprus was a ship in the military or naval service of any State at war with any friendly State—

Such person shall be guilty of an offence against this Order in Council and shall be punishable by fine and imprisonment or either of such punishments at the discretion of the Court.

Penalty on fitting out Naval or Military Expeditions without Licence.

13. If any person without the licence of Her Majesty and within the Island of Cyprus—

Prepares or fits out any naval or military expedition to proceed against the dominions of any friendly State, the following consequences shall ensue:—

- (1.) Every person engaged in such preparation or fitting out or assisting therein or employed in any capacity in such expedition shall be guilty of an offence against this Order in Council and shall be punishable by fine and imprisonment or either of such punishments at the discretion of the Court.
- (2.) All ships and their equipments and all arms and munitions of war used in or forming part of such expedition shall be forfeited to Her Majesty.

Punishment of Accessories.

14. Any person who aids, abets, counsels, or procures the commission of any offence against this Order in Council shall be liable to be tried and punished as a principal offender.

Limitation of Term of Imprisonment.

15. The term of imprisonment to be awarded in respect of any offence against this Order in Council shall not exceed two years, and any imprisonment to be awarded in respect of any such offence may be either with or without hard labour.

Illegal Prize.

Illegal Prize brought into Cyprus Waters restored.

16. If during the continuance of any war in which Her Majesty may be neutral any ship, goods, or merchandise captured as prize of war within the territorial jurisdiction of Her Majesty or within the ports or waters of Cyprus in violation of the neutrality of the realm of Great Britain and Ireland or of Cyprus, or captured by any ship which may have been built, equipped, commissioned, or despatched, or the force of which may have been augmented contrary to the provisions of the Foreign Enlistment Act, 1870,* or of this Order in Council, are brought within the ports or waters of Cyprus by the captor or any agent of the captor, or by any person having come into possession thereof with knowledge that the same was prize of war so captured as aforesaid it shall be lawful for the original owner of such prize or his agent, or for any person authorised in that behalf by the Government of the State to which such owner belongs, to make application to the Court for seizure

* 33 & 34 Vict. c. 90.

and detention of such prize and the Court shall on due proof of the facts order such prize to be restored.

Every such order shall be executed and carried into effect in the same manner and subject to the same right of appeal as in case of any Order made in the exercise of the ordinary jurisdiction of the Court, and in the meantime and until a final order has been made on such application the Court shall have power to make all such provisional and other orders as to the care or custody of such captured ship, goods, or merchandise, and (if the same be of perishable nature or incurring risk of deterioration) for the sale thereof and with respect to the deposit or investment of the proceeds of any such sale as may be made by such Court in the exercise of its ordinary jurisdiction.

General Provisions.

Licence by Her Majesty, how granted.

17. For the purposes of this Order in Council a licence by Her Majesty shall be under the Sign Manual of Her Majesty or be signified by Order in Council, or by proclamation of Her Majesty.

Proceedings to be in the High Court only.

18. All proceedings whatsoever under this Order in Council shall be had in the High Court of Justice for Cyprus and not in any other Court.

Jurisdiction in respect of Forfeiture of Ships.

19. All proceedings for the condemnation and forfeiture of a ship or ship and equipment or arms and munitions of war in pursuance of this Order in Council shall require the sanction of the High Commissioner and shall be taken in the High Court before the Judicial Commissioner.

The High Court by the Judicial Commissioner shall in addition to any other power given to it by this Order in Council have in respect of any ship or other matter brought before it in pursuance of this Order in Council (other than the prosecution of offenders) all powers which any Vice-Admiralty Court within Her Majesty's dominions has in the case of a ship or matter brought before it in the exercise of its lawful jurisdiction.

Regulations as to Proceedings against the Offender and against the Ship.

20. Where any offence against this Order in Council has been committed by any person by reason whereof a ship or ship and equipment or arms and munitions of war has or have become liable to forfeiture, proceedings may be instituted contemporaneously or not as may be thought fit against the offender and against the ship or ship and equipment or arms and munitions of war for the forfeiture, but it shall not be necessary to take proceedings

against the offender because proceedings are instituted for the forfeiture, or to take proceedings for the forfeiture because proceedings are taken against the offender.

Judicial Commissioner to frame Rules, &c.

21. The Judicial Commissioner may frame rules and regulations for the conduct of all proceedings to be had in the High Court of Justice under this Order in Council, and as to the fees payable in relation to such proceedings, and such rules and regulations shall be of the same force and effect as if they had been enacted in this Order in Council.

Officers authorised to seize offending Ships.

22. The following officers ; that is to say :—

- (1.) Any officer of customs or other public officer drawing a salary of not less than 200*l.* a year in Cyprus (subject nevertheless to any special or general instructions from the High Commissioner) :
- (2.) Any commissioned officer on full pay in the military service of the Crown, subject nevertheless to any special or general instructions from his commanding officer :
- (3.) Any commissioned officer on full pay in the naval service of the Crown, subject nevertheless to any special or general instructions from the Admiralty or his superior officer, may seize or detain any ship liable to be seized or detained in pursuance of this Order in Council, and such officers are in this Order in Council referred to as the "local authority."

Powers of Officers authorised to seize Ships.

23. Any officer authorised to seize or detain any ship in respect of any offence against this Order in Council may for the purpose of enforcing such seizure or detention call to his aid any officers, non-commissioned officers, or privates of the police force, or any officers of Her Majesty's army or navy, or Marines, or any excise officers, or officers of customs, or any harbour master, or dock master, or any officers having authority by law to make seizures of ships, and may put on board any ship so seized or detained any one or more of such officers to take charge of the same and to enforce the provisions of this Order in Council, and any officer seizing or detaining any ship under this Order in Council may use force if necessary for the purpose of enforcing seizure or detention, and if any person is killed or maimed by reason of his resisting such officer in the execution of his duties, or any person acting under his orders, such officer so seizing or detaining the ship or other person shall be freely and fully indemnified as well against the Queen's Majesty, Her heirs and successors, as against all persons so killed, maimed, or hurt.

Special Power of the High Commissioner to detain Ship.

24. If the High Commissioner is satisfied that there is a reasonable and probable cause for believing that a ship within Cyprus or the ports or waters of Cyprus has been or is being built, commissioned, or equipped contrary to this Act and is about to be taken beyond the limits of such ports or waters, or that a ship is about to be despatched contrary to this Order in Council, he shall have power to issue a warrant stating that there is reasonable and probable cause for believing as aforesaid, and upon such warrant the local authority shall have power to seize and search such ship and to detain the same until it has been either condemned or released by process of law or in manner hereinafter mentioned.

The owner of the ship so detained or his agent may apply to the Court for its release, and the Court shall as soon as possible put the matter of such seizure and detention in course of trial between the applicant and the Crown as represented by the High Commissioner.

If the applicant establish to the satisfaction of the Court that the ship was not and is not being built, commissioned, or equipped or intended to be despatched contrary to this Order in Council, the ship shall be released and restored.

If the applicant fail to establish to the satisfaction of the Court that the ship was not and is not being built, commissioned, or equipped or intended to be despatched contrary to this Order in Council then the ship shall be detained till released by order of the High Commissioner.

The Court may, in cases where no proceedings are pending for its condemnation, release any ship detained under this section, on the owner giving security to the satisfaction of the Court that the ship shall not be employed contrary to this Order in Council, notwithstanding that the applicant may have failed to establish to the satisfaction of the Court that the ship was not and is not being built, commissioned, or intended to be despatched contrary to this Order in Council. The High Commissioner may likewise release any ship detained under this section on the owner giving security to his satisfaction that the ship shall not be employed contrary to this Order in Council or may release the ship without such security if he think fit so to release the same.

If the Court be of opinion that there was not reasonable and probable cause for the detention and if no such cause appear in the course of the proceedings, the Court shall have power to declare that the owner is to be indemnified by the payment of costs and damages in respect of the detention, the amount thereof to be assessed by the Court; and any amount so assessed shall be payable by the proper financial officer of the Government of Cyprus out of any moneys legally applicable for that purpose. The Court shall also have power to make a like order for the indemnity of the owner on the application of such owner to the Court in a summary way, in cases where the ship is released by the order of the High Commissioner before any application is made by the owner or his agent to the Court for such release. Nothing in this section con-

tained shall affect any proceedings instituted or to be instituted for the condemnation of any ship detained under this section where such ship is liable to forfeiture, subject to the provision that if such ship is restored in pursuance of this section all proceedings for such condemnation shall be stayed; and where the Court declares that the owner is to be indemnified by the payment of costs and damages for the detainer all costs, charges, and expenses incurred by such owner in or about any proceedings for the condemnation of such ship shall be added to the costs and damages payable to him in respect to the detention of the ship.

Nothing in this section contained shall apply to any non-commissioned non-British ship about to be despatched from any of the ports or waters of Cyprus after having come within the same under stress of weather or in the course of a peaceful voyage and upon which ship no fitting out or equipping of a warlike character has taken place in the Island of Cyprus, its ports or waters.

Special Power of Local Authority to detain Ship.

25. Where it is represented to any local authority as defined by this Order in Council, and such local authority believes the representation that there is a reasonable and probable cause for believing that a ship within Cyprus or the ports or waters of Cyprus has been or is being built, commissioned, or equipped contrary to this Order in Council and is about to be taken beyond the limits of such ports or waters, or that a ship is about to be despatched contrary to this Order in Council, it shall be the duty of such local authority to detain such ship and forthwith to communicate the fact of such detention to the High Commissioner.

Upon the receipt of such communication the High Commissioner may order the ship to be released if he thinks there is no cause for detaining her, but if satisfied that there is reasonable and probable cause for believing that such ship was built, commissioned, or equipped, or intended to be despatched in contravention of this Order in Council, he shall issue his warrant stating that there is reasonable and probable cause for believing as aforesaid, and upon such warrant being issued further proceedings shall be had as in cases where the seizure or detention has taken place on a warrant issued by the High Commissioner without any communication from the local authority.

Where the High Commissioner orders the ship to be released on the receipt of a communication from the local authority without issuing his warrant, the owner of the ship shall be indemnified by the payment of costs and damages in respect of the detention upon application to the Court in a summary way in like manner as he is entitled to be indemnified where the High Commissioner having issued his warrant under this Order in Council releases the ship before any application is made by the owner or his agent to the Court for such release.

Power of High Commissioner to grant Search Warrant.

26. The High Commissioner may by warrant empower any person to enter any dockyard or other place within the Island of Cyprus, its ports or waters, and inquire as to the destination of any ship which may appear to him to be intended to be employed in the naval or military service of any State at war with a friendly State and to search such ship.

Appeals.

27. An appeal may be had from any decision of the Court under this Order in Council to the same tribunal and in the same manner to and in which an appeal may be had in cases within the ordinary jurisdiction of the Court.

Indemnity to Officers.

28. Subject to the provisions of this Order in Council providing for the award of damages in certain cases in respect of the seizure or detention of a ship, no damages shall be payable, and no other officer or local authority shall be responsible, either civilly or criminally, in respect of the seizure or detention of any ship in pursuance of this Order in Council.

Indemnity to High Commissioner.

29. The High Commissioner shall not be responsible in any action or other legal proceedings whatsoever for any warrant issued by him in pursuance of this Order in Council, or be examinable as a witness except at his own request in any Court of Justice in respect of the circumstances which led to the issue of the warrant.

*Interpretation Clause.**Interpretation of Terms.*

30. In this Order in Council, if not inconsistent with the context, the following terms have the meanings hereinafter respectively assigned to them ; that is to say :—

“ State.”

“ State ” includes any country, colony, province, or part of any province other than Cyprus and not forming part of the British dominions and any person or persons exercising or assuming to exercise the powers of government in or over any country, colony, province, or part of any province other than Cyprus and not forming part of the British dominions, or over any people not being Her Majesty's subjects.

“ Military Service.”

“ Military Service ” shall include military telegraphy and any other employment whatever in or in connexion with any military operation.

" Naval Service."

" Naval service " shall as respects a person include service as a marine, employment as a pilot in piloting or directing the course of a ship of war or other ship when such ship of war or other ship is being used in any military or naval operation, and any employment whatever on board a ship of war, transport, store ship, privateer, or ship under letters of marque, and as respects a ship include any user of a ship as a transport, store ship, privateer, or ship under letters of marque.

" High Commissioner."

" The High Commissioner " shall include any officer for the time being lawfully administering the Government of Cyprus.

" Court."

" Court " shall mean Her Majesty's High Court of Justice for Cyprus.

" Ship."

" Ship " shall include any description of boat, vessel, floating battery, or floating craft, also any description of boat, vessel, or other craft or battery made to move either on the surface of or under water, or sometimes on the surface of and sometimes under water.

" Building."

" Building " in relation to a ship shall include the doing any act towards or incidental to the construction of a ship, and all words having relation to building shall be construed accordingly.

" Equipping."

" Equipping " in relation to a ship shall include the furnishing a ship with any tackle, apparel, furniture, provisions, arms, munitions, or stores, or any other thing which is used in or about a ship for the purpose of fitting or adapting her for the sea or for naval service, and all words relating to equipment shall be construed accordingly.

" Ship and Equipment."

" Ship and equipment " shall include a ship and everything in or belonging to a ship.

" Master."

" Master " shall include any person having the charge or command of a ship.

“ Ports or Waters of Cyprus.”

“ The ports or waters of Cyprus ” shall include all ports, harbours, roadsteads, anchorages, quarantine grounds, estuaries, creeks, bays, and waters within a limit of three marine miles round the Island of Cyprus.

Saving as to Commissioned Ships.

31. Nothing in this Order in Council contained shall subject to forfeiture any commissioned ship of any State or give to the Court over or in respect of any ship entitled to recognition as a commissioned ship of a State any jurisdiction which it would not have had if this Order in Council had not passed.

And the Right Honourable the Earl of Kimberley, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

ORDER IN COUNCIL AS TO APPEAL TO THE JUDICIAL COMMITTEE
OF THE PRIVY COUNCIL FROM THE SUPREME COURT OF CYPRUS.

At the Court at Windsor, the 15th day of July, 1881.

PRESENT :

The Queen's Most Excellent Majesty in Council.

Whereas, by treaty, grant, usage, sufferance, and other lawful means Her Majesty the Queen has power and jurisdiction in and over Cyprus :

And whereas by an Order in Council, bearing date the 14th day of September, 1878,* Her Majesty ordered that there should be a High Commissioner in and over Cyprus and that there should be a Legislative Council in Cyprus, and empowered the said High Commissioner, with the advice of the said Legislative Council, to make all such laws and ordinances as might from time to time be necessary for the peace, order, and good government of Cyprus :

And whereas by ordinances duly made by the said High Commissioner, with the advice of the said Legislative Council, a Court of Record, called the Queen's High Court † of Justice for Cyprus (hereinafter referred to as the High Court †), has been established in and for Cyprus :

And whereas there exists at Nicosia in Cyprus an Ottoman Court known as the Court of Temyiz and hereinafter referred to as the Temyiz Court.‡

And whereas it is expedient that provision should be made to enable parties to appeal from the decisions of the High Court † and the Temyiz Court respectively ‡ to Her Majesty in Council :

* Printed at p. 304 above.

† Superseded by the Supreme Court established by the Cyprus Courts of Justice Order, 1882, printed at p. 341 below.

‡ The jurisdiction of this Court was abolished by the Cyprus Courts of Justice Order, 1882, printed at p. 341 below.

Now, therefore, Her Majesty, by virtue and in exercise of the powers in this behalf by the Foreign Jurisdiction Acts, 1843 to 1875,* or otherwise, in Her Majesty vested, is pleased by and with the advice of Her Privy Council to order, and it is hereby ordered, as follows :—

1. Any person or persons may appeal to Her Majesty, Her heirs and successors, in Her or their Privy Council, from any final judgment, decree, order, or sentence of the High Court† or of the *Temyiz Court*‡ in such manner, within such time and under and subject to such rules, regulations, and limitations as are herein-after mentioned ; that is to say :—

In case any such judgment, decree, order, or sentence shall be given or made for or in respect of any sum or matter at issue of the amount or value of not less than five hundred pounds sterling (500*l.*), or shall involve directly or indirectly any claim, demand, or question to or respecting property or any civil right amounting to or of the value of not less than five hundred pounds sterling (500*l.*), the person or persons feeling aggrieved by any such judgment, decree, order, or sentence may within fourteen days next after the same shall have been given or made apply to the Court by which the same shall have been given or made by motion or petition for leave to appeal therefrom to Her Majesty, Her heirs and successors, in Her or their Privy Council.

In case such leave to appeal shall be applied for by a party or parties who is or are directed to pay any sum of money or perform any duty, the Court to which the application is made shall be and is hereby empowered either to direct that the judgment, decree, order, or sentence appealed from shall be carried into execution or that the execution thereof shall be suspended pending the said appeal as to the same Court may appear to be most consistent with substantial justice.

And in case the same Court shall direct such judgment, decree, order, or sentence to be carried into execution, the person or persons in whose favour the same shall be given or made shall, before the execution thereof, give security to be approved by the same Court for the due performance of such judgment or order as Her Majesty, Her heirs and successors, shall think fit to make upon such appeal.

In all cases the appellant or appellants shall give security to be approved by the Court from whose judgment, decree, order, or sentence the appeal is made to an

* 6 & 7 Vict. c. 94 ; 29 & 30 Vict. c. 87 ; 38 & 39 Vict. c. 85 ; now repealed and consolidated by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

† Superseded by the Supreme Court established by the Cyprus Courts of Justice Order, 1882, printed at p. 341 below.

‡ The jurisdiction of this Court was abolished by the Cyprus Courts of Justice Order, 1882, printed at p. 341 below.

amount not exceeding five hundred pounds sterling (500*l.*) for the prosecution of the appeal and the payment of all such costs as may be awarded to any respondent by Her Majesty, Her heirs and successors, or by the Judicial Committee of Her Majesty's Privy Council.

If such last-mentioned security is given within three months from the date of such motion or petition for leave to appeal then and not otherwise the Court from whose decision the appeal is made shall admit the appeal, and the appellant or appellants shall be at liberty to prefer and prosecute his, her, or their appeal to Her Majesty, Her heirs and successors, in Her or their Privy Council, according to the rules for the time being in force respecting appeals to Her Majesty from Her Majesty's colonies and plantations abroad.

2. If shall be lawful for the High Court * *and the Temyiz Court* † respectively at their respective discretion, on the petition of any party who considers himself aggrieved by any preliminary or interlocutory judgment, decree, order, or sentence of such respective Court, to grant permission to such party to appeal against the same to Her Majesty, Her heirs and successors, in Her or their Privy Council, subject to the same rules, regulations, and limitations as are herein expressed respecting appeals from final judgments, decrees, orders, and sentences.

3. Nothing herein contained doth or shall extend to take away or abridge the right or authority of Her Majesty, Her heirs and successors, upon the humble petition of any person or persons aggrieved by any judgment or decision of the High Court * *or of the Temyiz Court* † at any time to admit his, her, or their appeal therefrom, upon such terms and in such manner as Her Majesty, Her heirs or successors, shall think fit, and to reverse, correct, or vary such judgment or decision as to Her Majesty, Her heirs or successors, shall seem meet.

4. In all cases of appeal admitted by the High Court * *or by the Temyiz Court*, † or by Her Majesty, Her heirs or successors, the Court from whose decision the Appeal is admitted shall certify and transmit to Her Majesty, Her heirs and successors, in Her or their Privy Council, in the case of an appeal from the High Court, * a true and exact copy, *and in the case of an appeal from the Temyiz Court* † a true and correct translation into the English language of all evidence, proceedings, judgments, decrees, and orders had or made in such cases appealed so far as the same have relation to the matter of appeal, such copies and translations to be certified under the seal of the Court transmitting the same, and the same Court shall also certify and transmit to Her Majesty,

* Superseded by the Supreme Court established by the Cyprus Courts of Justice Order, 1882, printed at p. 341 below.

† The jurisdiction of this Court was abolished by the Cyprus Courts of Justice Order, 1882, printed at p. 341 below.

Her heirs and successors, in Her or their Privy Council, a copy of the reasons given by the Judges of the same Court or by any of them for or against the judgment or decision appealed against where such reasons have been given in writing or a translation into the English language of such reasons if they shall have been given in any other language, and where such reasons shall have been given orally, then a statement in writing of such reasons.

5. The High Court * *and the Temyiz Court respectively* † shall in all cases of appeal to Her Majesty, Her heirs or successors, conform to and execute or cause to be executed such judgments and orders as Her Majesty, Her heirs and successors, shall think fit to make in the premises in such manner as any original judgment, decree, or order of the said respective Courts should or might have been executed.

And the Right Honourable the Earl of Kimberley, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

THE CYPRUS EXTRADITION ORDER IN COUNCIL, 1881.‡

At the Court at Windsor, the 15th day of July, 1881.

PRESENT :

The Queen's Most Excellent Majesty in Council.

Whereas, by treaty, grant, usage, sufferance, and other lawful means, Her Majesty the Queen has power and jurisdiction in and over Cyprus :

Now, therefore, Her Majesty, by virtue of the powers in this behalf by the Foreign Jurisdiction Acts, 1843 to 1878,§ or otherwise, in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

1. This Order may be cited as "The Cyprus Extradition Order in Council, 1881."

Extradition from Cyprus.

A.—*General Power.*

2.—(a.) In the circumstances and under the conditions in this Order appearing and prescribed, persons found in Cyprus, and

* Superseded by the Supreme Court established by the Cyprus Courts of Justice Order, 1882, printed at p. 341 below.

† The jurisdiction of this Court was abolished by the Cyprus Courts of Justice Order, 1882, printed at p. 341 below.

‡ This Order was amended by the Cyprus Extradition Order in Council, 1895, printed at p. 418 below. See also the Cyprus Extradition Order in Council, 1895, No. 2, printed at p. 419 below.

§ 6 & 7 Vict. c. 94 ; 29 & 30 Vict. c. 87 ; 38 & 39 Vict. c. 85 ; 41 & 42 Vict. c. 67 ; now repealed and consolidated by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

accused or convicted of offences committed in foreign countries, or in any part of the Ottoman dominions other than Cyprus, shall be given up to the respective Governments of those countries, or to the Ottoman Government, as the case may be, for trial there, or, in the case of persons so convicted, for the purpose of undergoing lawful punishment for the offences of which they were so convicted.

(b.) In every case the offence must be an offence which, if committed within British jurisdiction, would be an offence comprised in the First Schedule to this Order ; and every such offence is in this Order referred to as a scheduled offence.

(c.) The list of scheduled offences shall be construed according to the law of Cyprus, relating to British subjects, as that law existed, in case of an offence committed before the British occupation of Cyprus, at the date of this Order ; and as that law existed, in case of an offence committed since that occupation, at the date of the alleged offence, whether the same existed at common law, or under statute or ordinance made before or after the passing of this Order.

B.—Persons accused.

Request to High Commissioner.

3.—(a.) If a person, being or being alleged to be in Cyprus, is alleged to be a fugitive from a foreign country, or from any part of the Ottoman dominions other than Cyprus, and to be under prosecution there for a scheduled offence ; and

(b.) If a request for his extradition is made to the High Commissioner by the Government of that foreign country, or by the Ottoman Government, through a person recognised by the High Commissioner as a consular or other officer of the requesting Government, authorised in that behalf ; and

(c.) If the request is accompanied (i.) by a warrant of arrest or other equivalent judicial document, issued by a Judge, magistrate, or other person lawfully exercising jurisdiction in the country from which the person whose extradition is sought is alleged to be a fugitive, and (ii.) by depositions or statements taken or made on oath or affirmation before such a Judge or magistrate, and authenticated as prescribed by this Order, clearly stating those acts, and containing a description of the person claimed, and any particulars that may serve to identify him ;

(d.) The High Commissioner may, if he thinks fit, signify the request to the High Court.

Warrant of High Court.

4. Thereupon, and on such evidence being adduced as would, in the judgment of the High Court, justify the issue of a warrant for the apprehension of a British subject charged before it with an indictable offence, the Court may, if it thinks fit, issue a warrant for the apprehension, for purposes of this Order, of the fugitive.

Jurisdiction of Court.

5. On and after the issue of the warrant, as well before as after the fugitive is brought before the High Court thereon, the Court shall have the like jurisdiction and powers as in case of a British subject charged before it with an indictable offence.

Foreign Evidence.

6.—(a.) Foreign or Ottoman depositions and statements taken or made on oath or affirmation, and copies thereof, and foreign or Ottoman warrants or other judicial instruments authorising apprehension, and foreign or Ottoman certificates of conviction or judicial instruments stating a conviction, shall be receivable in evidence under this Order, if authenticated, to the satisfaction of the High Court, in manner provided by law independently of this Order, or in manner following :—

- (i.) If the depositions, statements, or copies purport to be certified as originals or as true copies by a Judge, magistrate or officer of the country where they were taken ; or
- (ii.) If the warrant, certificate, or judicial instrument purports to be signed by a Judge, magistrate, or officer of the country where it was issued ; and
- (iii.) If every deposition, statement, copy, warrant, certificate, or judicial instrument is proved by the oath of a witness, or is sealed with the official seal of the Minister of Justice, or other Minister of State of the country where it was taken or issued ; for which purpose judicial notice shall be taken of that seal.

(b.) Such depositions and statements shall be receivable in evidence, whether they are taken or made in the particular charge or not, or in the presence of the person charged or not.

7. The fugitive shall not be liable to interrogation by or before the High Court ; but he may, if he thinks fit, tender himself to be sworn and examined as a witness on his own behalf ; and thereupon he may give evidence in the same manner, and with the like effect and consequences, as regards cross-examination and perjury and otherwise, as any other witness.

Committal for Extradition.

8.—(a.) If the High Court is satisfied that the person brought before it is a fugitive, as alleged ; and

(b.) If the foreign or Ottoman warrant or other judicial instrument authorising his apprehension is authenticated as required by this Order ; and

(c.) If such evidence is adduced as, subject to the provisions of this Order, would, in the judgment of the Court, justify a committal for trial if the fugitive had been a British subject, and the offence of which he is accused had been committed in Cyprus ;

(d.) The Court shall commit the fugitive to prison, for extradition : but, otherwise, shall discharge him from custody.

*C.—Persons Convicted.**Application of foregoing Provisions.*

9.—(a.) If a person, being or being alleged to be in Cyprus is alleged to be a fugitive from a foreign country, or from any part of the Ottoman dominions other than Cyprus, and to have been convicted there of a scheduled offence; and

(b.) If a request is made for his extradition in manner aforesaid;

(c.) The course of proceeding shall be as prescribed in the foregoing provisions of this Order; except that—

(i.) The judicial documents accompanying the request shall clearly state the offence, and the place and time of conviction; and

(ii.) The evidence to be adduced before the High Court shall be such as, in the judgment of the Court, to prove the fact of conviction.

*D.—Persons Accused or Convicted.**Habeas Corpus.*

10.—(a.) A person committed for extradition under this Order shall have a right to apply to the High Court for a writ of habeas corpus, or an order in the nature thereof.

(b.) If he so applies, he shall not be given up before the decision of the Court on the return to the writ or order.

Proceedings on Committal.

11. On committal, the High Court shall inform the fugitive that he will not be given up before the expiration of fifteen days from committal, and that he may, at any time before he is given up, apply to the Court for a writ of habeas corpus, or an order in the nature thereof; but the fugitive may then and there waive his right so to apply, and in that case he may be given up before the expiration of that time.

12. On committal, the Court shall forthwith send to the High Commissioner a certificate thereof and of such waiver as aforesaid (if any), and such a report on the case as the Court thinks fit.

Order for Extradition.

13. Where a fugitive is committed for extradition, the High Commissioner, after the expiration of the time limited in this behalf by this Order, or sooner, in case of such a waiver as aforesaid, may, if he thinks fit, issue an order directing that the fugitive be given up to a person therein described, being, in the High Commissioner's opinion, authorised to receive the fugitive on behalf of the requesting Government.

Removal from Cyprus.

14.—(a.) The person to whom the fugitive is by such Order directed to be given up may receive the fugitive in Cyprus, and hold him in custody there, and convey him out of Cyprus.

(b.) The High Commissioner shall cause all lawful and reasonable assistance in that behalf to be afforded to that person.

(c.) If the fugitive escapes in Cyprus out of the custody of that person, he may be retaken as a British subject may be retaken in Cyprus on an escape.

Property in Possession of Fugitive.

15. Everything found in the possession of the fugitive on his apprehension, including not only property obtained by him by fraudulent bankruptcy, or otherwise unlawfully, but also everything that may serve as evidence of the offence in question, shall, if the High Court thinks fit, be seized, and, saving the rights of third parties, be given up either with the fugitive on his extradition, or without him if, by reason of his escape or death, the extradition, though granted, cannot be carried into effect.

*E.—Restrictions on Extradition.**Political Offences.*

16. A fugitive shall not be given up if the offence in question is, in the judgment of the High Commissioner, or of the High Court, of a political character.

17. If at any time during the proceedings for extradition, it is shown to the satisfaction of the High Commissioner that the offence in question is of a political character,—or that the request for extradition is made with a view to the trial or punishment of the fugitive for an offence of a political character, the High Commissioner shall refrain from signifying the request to the High Court, or shall issue an order directing that the fugitive be discharged from custody (as the case may require).

18. The High Court shall, at any time during the proceedings for extradition, receive any evidence tendered to show that the offence in question is of a political character, or that the request for extradition is made with a view to the trial or punishment of the fugitive for an offence of a political character, and if, by that evidence or otherwise, the Court is, at any time during the proceedings for extradition, satisfied that the offence is of that character, or that the request is made with that view, the Court shall refrain from issuing a warrant for the apprehension of the fugitive, or shall discharge him from custody (as the case may require).

Limitation of Time.

19. A fugitive shall not be given up, except on such waiver as aforesaid, before the expiration of fifteen days from his committal for extradition.

20. If a fugitive committed for extradition is not given up and conveyed out of Cyprus within two calendar months from the committal, or from the decision against him on the return of a writ of habeas corpus or of an order in the nature thereof, then, on application to the Court by him or on his behalf, at any time after the expiration of those two months, and on proof of reasonable notice of the application having been given to the High Commissioner, the Court may, if it thinks fit, order that, unless good cause be shown to the contrary, within a time limited by the Court, the fugitive be discharged from custody; and the Court may afterwards, if it thinks fit, discharge him from custody accordingly.

Trial for Offence in Question only.

21. A fugitive shall not be given up unless the High Commissioner is satisfied that provision is made by the law of the country of the requesting Government, or by lawful arrangement with that Government, to the effect that the fugitive shall not be detained or tried in that country for any offence committed there before his extradition, other than a scheduled offence provable by the facts on which his extradition is grounded, unless and until he has been restored, or had a reasonable opportunity of returning, to a place within British jurisdiction.

22. A fugitive shall not be given up if he has been tried in Cyprus for the offence in question, or is under prosecution there for that offence.

23. A fugitive shall not be given up if, at any time during the proceedings for his extradition, it is shown to the satisfaction of the High Court, that since the commission of the offence in question, he has, according to the law of the country of the requesting Government, acquired, by lapse of time or otherwise, exemption from prosecution or punishment in that country for the offence in question.

24. A fugitive who is under prosecution in Cyprus for an offence other than that in question, or who is undergoing in Cyprus punishment under a conviction there for an offence other than that in question, shall not be given up before he has been lawfully discharged in respect of that prosecution or conviction, by acquittal, or on expiration of his term of punishment, or otherwise.

F.—General Application of foregoing Provisions.

25. This Order applies whether the offence in question was committed before or after the passing of this Order.

26. This Order applies whether there is or is not concurrent jurisdiction in any Court in Cyprus in relation to the offence in question.

27. A fugitive is liable to be given up, notwithstanding the existence of any civil obligations contracted by him in Cyprus

or any detention or proceedings there, which he is undergoing, or to which he may be subject, in consequence of such obligations.

28. For purposes of this Order, every colony, dependency, and constituent member of a country, and every vessel of that country, is part of that country, and every vessel of any part of the Ottoman dominions, other than Cyprus, is part of those dominions.

29. This Order applies whether the fugitive is or is not an Ottoman subject or a British subject.

30. For purposes of this Order a fugitive accused or convicted of having counselled, procured, commanded, aided, or abetted, the commission of an offence, or of having been accessory thereto, before or after the fact, is a fugitive accused or convicted (as the case may be) of having committed that offence, provided that such counselling, procuring, commanding, aiding, or abetting, or being accessory, would be an indictable offence if committed by a British subject in Cyprus, and would also be punishable as an offence by the law of the country of the requesting Government.

31. For purposes of this Order, a foreign conviction by default, or on contumacy, is an accusation only, and not a conviction.

G.—Apprehension in Anticipation of Request.

32. Where it is shown to the satisfaction of the High Court that there are reasonable grounds for believing that a person who is in Cyprus is a fugitive from a foreign country, or from some part of the Ottoman dominions other than Cyprus, and is accused or has been convicted of a scheduled offence committed there, and that a request is about to be made for his extradition, the Court may, if it thinks fit, issue a warrant for his apprehension, and for his being brought before the Court, with a view to his detention until reasonable opportunity for a request has been given; and, thereupon, the Court may, if it thinks fit, either remand him to custody for a reasonable time, and so from time to time, or at any time, discharge him from custody.

H.—General.

Judicial Commissioner.

33. In all proceedings relating to extradition the High Court shall act by the Judicial Commissioner.

Evidence to show not Scheduled Offence.

34. At any time during proceedings for extradition, the High Commissioner or the High Court shall receive any evidence tendered to show that the offence in question is not a scheduled offence.

Treatment after Committal.

35. A person committed for extradition shall at all times during the proceedings for his extradition be treated in custody in the

manner in which a British subject, charged before the High Court with an indictable offence, is entitled by law to be treated in custody during a remand.

Orders of High Commissioner.

36. Every order of the High Commissioner under this Order shall be obeyed and acted on by the High Court, and by all keepers of prisons, constables, and others without question.

Writing ; Signature ; Seal.

37. Every request for extradition, and every signification, warrant, certificate, and order under this Order shall be in writing, signed by the person making or issuing the same, or some other person lawfully authorised in that behalf, and sealed in the case of an instrument made or issued by the High Commissioner, with his official seal, and in case of an instrument issuing from the High Court, with the seal of the Court.

Forms in Schedule.

38. The forms in the Second Schedule to this Order may be used, with variations and additions according to circumstances, in cases to which those forms refer, and when so used shall be valid and sufficient in law.

Extradition to Cyprus.

39.—(a.) With a view to a request to be made by the High Commissioner to a foreign Government or to the Ottoman Government for the extradition of a fugitive, the High Court may, if it thinks fit, on a suggestion on behalf of the High Commissioner, and on a sworn information, issue its warrant for the apprehension in Cyprus of the fugitive.

(b.) But the High Court shall not so issue its warrant if it appears to the Court that the offence in question is of a political character, and the Court shall receive any evidence tendered in that behalf.

(c.) The High Court may also, if it thinks fit, from time to time, as well after as before the issue of the warrant, take and certify any supplementary evidence tendered in aid of the proceedings for obtaining the extradition.

40. * * * [Section 40 repealed and further provisions substituted by "The Cyprus Extradition Order in Council, 1895," printed at p. 418 below.]

Taking of Evidence for Foreign Prosecution.

41.—(a.) Where it is shown to the satisfaction of the High Commissioner that a criminal prosecution is pending before a foreign Court, or a Court in any part of the Ottoman dominions other than Cyprus, he may, if he thinks fit, issue an order requiring the High Court to take evidence for the purposes thereof, provided

that he is satisfied that the offence in question is not of a political character, and that the evidence is not sought with a view to the trial or punishment of any person for an offence of a political character.

(b.) Thereupon, the Court shall take the evidence of every witness appearing, as on a charge before the Court of an indictable offence, and shall certify at the foot of the depositions or informations that they were so taken; save that the evidence may be taken in the absence of the person, if any, charged, and the fact of his presence, or of his absence, shall appear on the depositions or informations.

(c.) For that purpose any person in Cyprus, after payment on tender to him of a reasonable sum for his expenses, shall be compellable to appear, and give evidence, and produce documents, as on a charge before the Court of an indictable offence.

(d.) The Court shall send the depositions or informations to the High Commissioner, with such a report, if any, on the case, as the Court thinks fit.

(e.) If any person wilfully gives false evidence under this article he shall be guilty of perjury.

Application to Cyprus of Fugitive Offenders Acts.

42. The Fugitive Offenders Act, 1843,* or so much thereof as is for the time being in force, and any enactment for the time being in force, amending or substituted for the same, are hereby extended to Cyprus with the following adaptations, namely,—

(a.) In sections 2 and 6 of the Fugitive Offenders Act, 1843,* the High Court of Justice, acting by the Judicial Commissioner, shall be deemed to be substituted for a Judge of a Superior Court in a colony.

(b.) In sections 3, 5, and 6 of the same Act, the High Commissioner shall be deemed to be substituted for the Governor of a colony.

And the Right Honourable the Earl of Kimberley, one of Her Majesty's Principal Secretaries of State, and the Lords Commissioners of the Treasury, and the Lords Commissioners of the Admiralty are to give the necessary directions herein as to them may respectively appertain.

C. L. Peel.

The SCHEDULES.

The FIRST SCHEDULE.

LIST OF OFFENCES.

Murder, and attempt and conspiracy to murder.

Manslaughter.

Counterfeiting and altering money, and uttering counterfeit or altered money.

* 6 & 7 Vict. c. 34, repealed by the Fugitive Offenders Act, 1881 (44 & 45 Vict. c. 69).

Forgery, counterfeiting, and altering, and uttering what is forged or counterfeited or altered.
 Embezzlement and larceny.
 Obtaining money or goods by false pretences.
 Offences by bankrupts against bankruptcy law, or any indictable offence under the laws relating to bankruptcy.
 Fraud by a bailee, banker, agent, factor, trustee, or director, or member, or public officer of any company, made criminal by any Act of Parliament or ordinance for the time being in force.
 Rape.
 Abduction.
 Child stealing.
 Burglary and housebreaking.
 Arson.
 Robbery with violence.
 Threats by letter or otherwise with intent to extort.
 Piracy by law of nations.
 Sinking or destroying a vessel at sea, or attempting or conspiring to do so.
 Assault on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.
 Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.
 Offences against the Slave Trade Act, 1873,* or otherwise in connexion with the slave trade, committed on the high seas or on land, or partly on the high seas and partly on land.
 Kidnapping and false imprisonment.
 Perjury and subornation of perjury.
 Any offence not before mentioned, being an indictable offence under the following Acts of Parliament of 1861, or any of them, or under any Act amending or substituted for the same :—
 24 & 25 Vict. c. 96.† Larceny.
 24 & 25 Vict. c. 97.‡ Malicious injuries to property.
 24 & 25 Vict. c. 98.§ Forgery.
 24 & 25 Vict. c. 99.¶ False coining.
 24 & 25 Vict. c. 100.¶ Murder and other offences against the person.

The SECOND SCHEDULE.

Form of Warrant for Apprehension after Request for Extradition.

In the Queen's High Court of Justice for Cyprus.

To A.B., police officer, and other officers of this Court.

Whereas _____, High Commissioner and Commander-in-Chief of this Island, has by an instrument in writing, under his hand and official seal, signified to this Court that a request has been duly made to him for the extradition of _____, late of _____, accused [or convicted] of the commission of the crime of _____, within the jurisdiction of _____

This is therefore to command you, in the name of Her Majesty Queen Victoria, forthwith to apprehend the said _____, and bring him before this Court, to show cause why he should not be surrendered in pursuance of the Cyprus Extradition Order in Council, 1881, for which this shall be your warrant.

Given under the hand of the undersigned Judicial Commissioner, and the seal of this Court, this _____ day of _____ 18 _____.

* 36 & 37 Vict. c. 88.

‡ The Malicious Damage Act, 1861.

¶ The Coinage Offences Act, 1861.

† The Larceny Act, 1861.

§ The Forgery Act, 1861.

¶ The Offences against the Person Act, 1861.

Form of Warrant for Apprehension in anticipation of Request for Extradition.

In the Queen's High Court of Justice for Cyprus.

To A.B., police officer, and other officers of this Court.

Whereas it has been shown to the satisfaction of this Court that there are reasonable grounds for believing that _____, late of _____, is accused [or has been convicted] of the commission of the crime of _____, within the jurisdiction of _____, and that a request is about to be made for his extradition :

This is therefore to command you, in the name of Her Majesty Queen Victoria, forthwith to apprehend the said _____, and to bring him before this Court, to be further dealt with according to law, for which this shall be your warrant.

Given under the hand of the undersigned Judicial Commissioner, and the seal of this Court, this _____ day of _____ 18 .

Form of Warrant of Committal.

In the Queen's High Court of Justice for Cyprus.

To A.B., police officer of this Court, and to the keeper of the prison at _____

On this _____ day of _____ 18 , late of _____, was brought before this Court to show cause why he should not be surrendered, in pursuance of the Cyprus Extradition Order in Council, 1881, on the ground of his being accused [or having been convicted] of the commission of the crime of _____, within the jurisdiction of _____; and no sufficient cause has been shown to this Court why he should not be surrendered in pursuance of the said Order in Council :

This is therefore to command you, the said police officer, in the name of Her Majesty Queen Victoria, forthwith to convey and deliver the said _____ into the custody of the said keeper of the said prison, together with this warrant, and you, the said keeper of the said prison, to receive the said _____ into your custody, and him there safely to keep until he is thence delivered, pursuant to the provisions of the said Order in Council, for which this shall be your warrant.

Given under the hand of the undersigned Judicial Commissioner, and the seal of this Court, this _____ day of _____ 18 .

Form of Order for Surrender of Fugitive.

To the keeper of the prison at _____, and to _____

Whereas _____, late of _____, accused [or convicted] of the commission of the crime of _____, within the jurisdiction of _____, was delivered into the custody of you, the keeper of the above-mentioned prison, by warrant dated _____, pursuant to the Cyprus Extradition Order in Council, 1881 :

Now I do hereby, in pursuance of the said Order in Council, order you, the said keeper, to deliver the said _____ into the custody of the said _____; and I command you, the said _____, to receive the said _____ into your custody, and to convey him out of Cyprus, to the intent that he may be conveyed within the jurisdiction of the said _____ and there placed in the custody of any person or persons appointed by the said _____ to receive him, for which this shall be your warrant.

Given under the hand and official seal of the undersigned High Commissioner and Commander-in-Chief of the Island of Cyprus, this _____ day of _____ 18 .

ORDER IN COUNCIL ALTERING THE CONSTITUTION OF THE LEGISLATIVE COUNCIL OF CYPRUS, AS AMENDED BY ORDER IN COUNCIL, DATED FEBRUARY 14, 1883.*

At the Court at Windsor, the 30th day of November, 1882.

PRESENT :

The Queen's Most Excellent Majesty.

His Royal Highness Prince Leopold, Duke of Albany.

Lord Privy Seal.

Lord Steward.

Mr. Gladstone.

Secretary Sir William Vernon Harcourt.

Whereas by an Order of Her Majesty in Council, bearing date at Balmoral, the 14th day of September 1878,† constituting the office of High Commissioner and Commander-in-Chief in and over the Island of Cyprus (therein and hereinafter called the High Commissioner), and making provision for the government of the said Island, it is ordered that there shall be in the said Island a Legislative Council constituted as in the said Order mentioned :

And whereas it is provided in the said Order in Council that the said Order shall remain in force until the same shall be revoked or altered by Her Majesty with the advice of Her Privy Council :

And whereas it is expedient to alter the constitution of the Legislative Council of Cyprus (hereinafter called the Island) :

Now, therefore, Her Majesty, by virtue of the powers in this behalf in Her vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

1. The Legislative Council, as constituted by the said Order in Council, may continue to transact business, and its proceedings shall be valid, until the return of the first writs for the election of members of the Legislative Council as constituted by this Order, and from and after the return of the said writs so much of the said Order as relates to legislation and to the constitution and functions of the said Council (that is to say, the articles thereof numbered 4 to 19, both inclusive) shall be and the same is hereby revoked, but without prejudice to anything lawfully done thereunder.

2. The Legislative Council of Cyprus (hereinafter called the Council) shall be constituted as hereinafter mentioned.

3. It shall be lawful for the High Commissioner, with the advice and consent of the Council, to make all such laws as may from time to time be necessary for the peace, order, and good government of the Island, with this qualification, that it shall not be lawful for the High Commissioner and the Council to make any law altering

* This Amending Order is printed at length in Statutory Rules and Orders Revised (1st Edition), Vol. 3, p. 517.

† Printed at p. 304 above.

the constitution of the Council. Full authority is nevertheless hereby reserved to Her Majesty, Her heirs and successors, through one of Her or their Principal Secretaries of State, to confirm or disallow any such laws in the whole or in part, and to make and establish from time to time, with the advice of Her or their Privy Council, all such laws as to Her or them may appear necessary for the peace, order, and good government of the Island, as fully as if this Order had not been made.

Any law, or any part thereof, which shall be disallowed by Her Majesty, Her heirs and successors, shall cease to be of any force or effect so soon as the disallowance thereof shall be notified by proclamation by the High Commissioner.

4. No law made by the High Commissioner, with the advice and consent of the Council, shall take effect until the High Commissioner shall have assented thereto in the name of Her Majesty and on Her behalf, and shall have signed the same in token of such assent, or until Her Majesty shall have signified Her pleasure that it take effect.

Whenever any law is presented to the High Commissioner for his assent, he may declare that he assents to such law, or that he refuses his assent thereto, or that he reserves the same for the signification of Her Majesty's pleasure.

5. The High Commissioner shall not assent to any law whereby any of the taxes, imposts, or duties at present levied shall be altered or discontinued unless Her Majesty's approval of such alteration or discontinuance shall have previously been signified.

6. The Councils shall consist of the High Commissioner and eighteen members, of whom twelve shall be elective and six non-elective.

The Council shall not be disqualified from the transaction of business by reason of any vacancies among the elective or non-elective members thereof.

7. The non-elective members shall be such holders of public offices in the Island as shall from time to time be named or designated by any instruction under Her Majesty's Sign Manual and Signet, or through one of Her Principal Secretaries of State.

All such non-elective members shall hold their places in the Council during Her Majesty's pleasure, and the High Commissioner may by any instrument under the public seal of the Island suspend any such member from the exercise of his functions as member.

8. If any non-elective member shall die, or from any cause cease to be or become incapable of acting as a member of the Council or be suspended from the exercise of his functions as a member, or be temporarily absent from the Island, the High Commissioner may, by an instrument under the public seal of the Island, appoint any fit person to be provisionally a member of the Council in the place of such member. Every such provisional appointment may be disallowed by Her Majesty through one of Her Principal Secretaries of State, or may be revoked by the High Commissioner by any such instrument as aforesaid.

A member provisionally appointed shall forthwith cease to be a member if his appointment is disallowed by Her Majesty, or if the member in whose place he was appointed shall return to the Island, or be declared by the High Commissioner capable of exercising his functions as a member of the Council.

9. The non-elective members of the Council shall take precedence of the elective members, and shall have seniority and rank among themselves in the order of precedence of their respective public offices, or in case of any doubt as Her Majesty shall direct through one of Her Principal Secretaries of State.

10. Of the twelve elective members, three shall be elected by the Mahometan and nine by the non-Mahometan voters.

11. The Island shall be divided into three electoral districts each returning four members, one elected by the Mahometan and three by the non-Mahometan voters.

Until the High Commissioner shall otherwise order by proclamation, the said districts shall consist of the following Cazas, namely,—

1st District. Nikosia and Kyrenia.

2nd District. Famagusta and Larnaca.

3rd District. Limassol and Papho.

Every non-Mahometan voter may vote for as many candidates in each district as there are members to be elected for whom he is entitled to vote ; he may only give one vote for any candidate, but he need not vote for the full number to be elected.

12.* Every male person, being either an Ottoman or a British subject, or having resided in the Island not less than five years, who has attained the age of twenty-one years and who is a payer of any class of the taxes called Verghi and has on or before the 13th day of January ("new style") in any year paid in respect of any electoral district all Verghi payable by him up to that date, shall be entitled to be registered in the following year as a voter, and when so registered, to vote at the election of Members for such district :

Provided that any such male person, who, on or after the 14th day of January ("new style") in any year and before the time appointed for making the lists of voters in that year shall have paid all Verghi payable by him up to the 13th of January ("new style") shall be entitled to apply to the Officer appointed to make the list for the Claimant's Nahieh to insert his name therein, and the said officer, on production of the receipt for such payment, shall insert the name of such person in the list.

13. Such officer of the Government in every Nahieh as the High Commissioner shall by proclamation appoint shall, at such time in each year as may be fixed by the High Commissioner make a true list of all persons, being payers of Verghi in respect of such Nahieh, who shall be at such time qualified to be registered

* Article 12 was substituted for the previous Article by the Order of 1883.

as voters at the election of members of the Legislative Council for the electoral district in which such Nahieh is situated

The said officer shall forthwith transmit such list to the president of the District Court of the Caza in which such Nahieh is situated ; and the president of the District Court shall as soon as conveniently may be cause every list so transmitted to him to be published, together with a notice in English, Greek, and Turkish, that all objections thereto will be heard and determined by him at a time or times to be specified in such notice, being such time or times as shall be appointed for that purpose by the High Commissioner.

The president of the District Court, after hearing any objections which may be made, shall strike out of the lists all names which shall, in his opinion, have been improperly inserted therein, and shall insert all names which shall, in his opinion, have been improperly omitted therefrom, and shall take care that the name of the same person is not retained in more than one of the said lists. Provided that no objection to the insertion of the name of a voter shall be entertained unless the person objecting first deposits, in respect of such objection, the sum of five shillings with the registrar of the District Court, as a guarantee of good faith, which shall be forfeited to Her Majesty if the objection fails from any cause.

Every person whose name shall be in any list of voters so revised as aforesaid shall be deemed to be registered as a voter within the meaning of this Order, and the revised lists shall be conclusive evidence of the right of the persons therein named to vote at any election that may take place prior to the making of the lists of voters in the next succeeding year.

14. Every person who is for the time being registered as a voter in any electoral districts for the election of members of the Council, and who is not subject to any of the disqualifications hereinafter mentioned, shall be eligible as a member of the Council for any electoral district.

The following persons shall be disqualified for being elected and for sitting or voting as members of the Council ; that is to say :—

Judges of any Court in the Island.

Public contractors.

Uncertificated bankrupts.

Persons convicted of any offence and sentenced to imprisonment for a term of not less than six months, until the expiration or remission of such sentence or of the unexpired residue thereof.

If any person who is not eligible under this Order as a member of the Council shall be returned as a member at any election, such election shall be void as regards such person, but not as regards any other person elected at the same time, and a new writ shall be issued in the same manner as if such person had been duly elected, and his seat had been vacated by death, resignation, or otherwise.

Every person who having been ineligible at the time of his

election, or whilst subject to any of the disqualifications hereinbefore mentioned, shall sit or vote in the Council as an elective member, shall, for every day on which he sits or votes, forfeit the sum of fifty pounds, to be recovered by action in any District Court by any person who shall sue for the same.

For the purposes of this Order the term "public contractor" means and includes any person who is in any way whatsoever beneficially interested in any contract or agreement for or on account of the public service of the Island, otherwise than as a shareholder in an incorporated or joint stock company, or as a shareholder or partner in any company or partnership of the description specified in Article 10 of the Ottoman Commercial Code, where such incorporated or joint stock company, or other company or partnership, shall consist of more than twenty persons ; and the term "uncertificated bankrupt" includes any person who has made a declaration of inability to pay his debts, under Article 148 of the Ottoman Commercial Code, or who has been declared a bankrupt under the provisions of either Article 289 or Article 290 of the same Code, and who has not obtained the benefit of Article 305 of the same Code, and any person declared bankrupt under Article 292 of the same Code.

15. In case an election is disputed by an unsuccessful candidate on the ground that the majority of a successful candidate was made up by illegal or informal votes, or was obtained by bribery, treating, or intimidation, or that the successful candidate was not eligible as a member of the Council, or on the ground that the provisions of any proclamation under clause 17 of this Order, determining the manner in which the election is to be conducted, have not been observed or have been disobeyed in some particular whereby, according to the directions of such proclamation, the election is rendered subject to inquiry on petition, he may present a petition to the Supreme Court, praying an inquiry, and the matter shall be inquired into by a Judge of the Supreme Court, whose decision shall be final. Until the Legislative Council otherwise provide, the law in force in England for the time being relating to corrupt practices at elections, and disputed elections, shall, so far as practicable, be applied by the Judge to the adjudication of such cases. The Judges of the Supreme Court may make, alter, and repeal rules for the conduct of such election inquiries.

16. For the purpose of every general election of members of the Council, and in the case of any vacancies among the elective members by death, resignation, or otherwise, the High Commissioner shall issue writs of election, under the public seal of the Island, addressed to the returning officers of the respective electoral districts for which members are to be returned.

Such writs may be in the form in the schedule to this Order.

17. The High Commissioner may, from time to time, by proclamation, provide for the formation, revision, and custody of voters' lists, and for the appointment and duties of returning officers, and for determining the time and place for holding elections,

and the manner in which elections shall be conducted and a poll taken when required, and the manner in which votes shall be given and the result ascertained, and for the return of the writs, and for all other matters necessary to the orderly and impartial conduct of elections.

Every such proclamation shall take effect from such date as shall be named therein, or, if no date be named therein, from the date thereof, and shall have the force of law, but shall be subject to disallowance in whole or in part by Her Majesty, signified through one of Her Principal Secretaries of State. The High Commissioner shall, by proclamation, give notice of any such disallowance, and thereupon the provisions so disallowed shall cease to be of any force or effect.

18. Any elective member may resign his seat in the Council by writing under his hand addressed to the High Commissioner, and upon the receipt of such resignation by the High Commissioner the seat of such member shall become vacant.

If any elective member fails to give his attendance in the Council for one whole session without the leave of the Council entered in its journals, or if he is appointed a Judge of any Court in the Island, or becomes a public contractor or an uncertificated bankrupt, or is convicted of any offence and sentenced to any term of imprisonment amounting to six months or more, the seat of such member shall thereby become vacant.

19. There shall be a session of the Council once at least in each year, so that a period of twelve calendar months do not intervene between the last sitting in one session and the first sitting in the next session.

The High Commissioner shall, by proclamation, appoint the place and time for holding each session of the Council, and every such session shall be holden accordingly.

20. The High Commissioner in person, or by proclamation, may prorogue or dissolve the Council whenever he thinks fit, and, unless the Council be sooner dissolved, the elective members shall hold their seats until the expiration of five years from the date of the return of the first writs at the last preceding general election. At the expiration of such five years, the High Commissioner shall dissolve the Council.

A general election shall be held within two calendar months after a dissolution, and in case of a vacancy by death, resignation, or otherwise, an election shall be held as soon as possible after the vacancy occurs.

21. The High Commissioner when present shall preside at all meetings of the Council, and in his absence such non-elective member as he shall, from time to time, appoint for that purpose, and in default of such appointment the senior non-elective member of the Council present shall preside.

22. No business (except that of adjournment) shall be transacted unless there be present six members of the Council besides the High Commissioner or presiding member.

23. The Council shall, in the mode of transaction of business, whether for the passing of laws or other matters, conform as nearly as may be to such instructions under Her Majesty's Sign Manual and Signet as may, from time to time, be addressed to the High Commissioner in that behalf.

Subject to such instructions, the Council shall, as soon as convenient after its first meeting, and from time to time afterwards as occasion may require, make standing rules and orders for the regulation of their own proceedings. And such rules and orders shall take effect when confirmed by the High Commissioner.

24. No vote, resolution, or law for the appropriation of any part of the public revenue, or for the imposition of any tax or impost, shall be proposed except by the High Commissioner or by his direction; but, with the foregoing exceptions, any member may propose any question for debate in the Council, and such question, if seconded by any other member, shall be debated and disposed of according to the standing rules and orders.

The elective members shall have the right to put questions to the non-elective members on matters of public concern affecting the administration of their several departments.

25. Either the English, Greek, or Turkish language may be used in the debates of the Council. In taking down the minutes and in Bills laid before the Council the English language shall be used, and Greek and Turkish translations shall be appended to the minutes and Bills when printed for the use of members.

26. All questions proposed for debate in the Council shall be decided by the majority of the votes of the members present, and if upon any question the votes are equal, the High Commissioner, if presiding, shall have a casting vote, and if a non-elective member be presiding, such non-elective member shall have a casting vote in addition to his own original vote.

27. The several sums required for the under-mentioned services shall be permanently charged on the consolidated revenue of the Island, and shall be payable to Her Majesty, Her heirs and successors, every year until it shall be otherwise ordered by Her Majesty, Her heirs or successors, with the advice of Her or their Privy Council:—

92,686*l.*,* being a sum equal to the sums payable under the annex, dated the 1st of July, 1878, to the Convention of Defensive Alliance between Great Britain and Turkey, signed on the 4th of June, 1878, and under an agreement respecting Cyprus lands signed by the representatives of Great Britain and Turkey on the 3rd of February, 1879.

4000*l.*, for the High Commissioner's salary.

600*l.*, for the High Commissioner's establishment.

* This sum was increased to 92,799*l.* 11*s.* 3*d.*, by Order in Council of August 3, 1886, printed at p. 415 below.

13,000*l.*, for salaries of Judges, magistrates, village judges, and officers of the Law Courts, and for the allowances and expenses of the said Courts.

5000*l.*, for salaries of public offices the holders of which are non-elective members of the Legislative Council.

28. Any person administering the Government of Cyprus shall be held to be the High Commissioner thereof, within the meaning and for the purposes of this Order.

29. Her Majesty hereby reserves unto Herself, Her heirs and successors, full power with the advice of Her or their Privy Council to revoke, alter, or amend this Order as to Her or to them shall seem fit.

30. This Order shall come into effect on and from a day to be appointed in that behalf by the High Commissioner, which shall be notified by proclamation to be published in the Official Gazette.* Provided that the day to be so appointed shall not be later than six months from the date hereof.

31. So much of the said Order in Council of the 14th day of September, 1878,† as is not hereby revoked shall remain in force until the same shall be revoked, or altered by Her Majesty, with the advice of Her Privy Council.

C. L. Peel.

SCHEDULE.

Form of Writ of Election.

A.B., High Commissioner and Commander-in-Chief, to the returning officer of the electoral district of _____ : Greeting.

I command you that you proceed, according to law, to the election of member[s] by the Mahometan } voters in the said
non-Mahometan }
district to serve in the Legislative Council of Cyprus. And that you do indorse hereon the names of the person[s] elected and the date of election : and that you do return this writ so indorsed unto the Chief Secretary of Government not later than the _____ day of _____

Dated this _____ day of _____

(Countersigned) *C. D.*, Chief Secretary.

* The High Commissioner by Proclamation, dated February 8, 1883, published in the Cyprus Gazette of that day, appointed that day for this Order to come into force.

† Printed at p. 304 above.

THE CYPRUS COURTS OF JUSTICE ORDER, 1882, AS AMENDED BY
THE CYPRUS COURTS OF JUSTICE AMENDMENT ORDER, 1902.*

At the Court at Windsor, the 30th day of November, 1882.

PRESENT.

The Queen's Most Excellent Majesty.

His Royal Highness Prince Leopold (Duke of Albany).

Lord Privy Seal.

Lord Steward.

Mr. Gladstone.

Secretary Sir William Vernon Harcourt.

Whereas by virtue of the Foreign Jurisdiction Acts, 1843 to 1878,† it is lawful for Her Majesty to hold, exercise, and enjoy any power or jurisdiction which Her Majesty now hath or may at any time hereafter have within any country or place out of Her Majesty's dominions in the same and as ample a manner as if Her Majesty had acquired such power or jurisdiction by the cession or conquest of territory :

And whereas under a convention concluded at Constantinople on the 4th June, 1878,‡ His Imperial Majesty the Sultan of Turkey assigned the Island of Cyprus to be occupied and administered by England :

And whereas by an annex to the said Convention made on the 1st day of July, 1878,§ it was amongst other things agreed that a Mussulman religious tribunal should continue to exist in the said Island which should take exclusive cognisance of religious matters and of no others, concerning the Mussulman population of the Island.

And whereas by a supplementary convention concluded at Constantinople on the 14th of August, 1878,|| it was, amongst other things, declared that, in assigning the Island of Cyprus to be occupied and administered by England. His Imperial Majesty the Sultan had thereby transferred to and vested in Her Majesty the Queen for the term of the occupation, and no longer, full powers of making laws for the government of the Island in Her Majesty's name free from the Porte's control.

And whereas it is expedient to make better provision for the administration of justice in Cyprus.

Now, therefore, Her Majesty, by virtue of the powers in this behalf by the Foreign Jurisdiction Acts, 1843 to 1878,† or otherwise vested in Her, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows.

* This Amending Order is printed at length in Statutory Rules and Orders, 1902, p. 168, and so much of the 1902 Order as does not specifically amend the 1882 Order is printed at pp. 420-423 below. See also "The Cyprus Courts of Justice Order, 1883," printed at p. 412 below.

† 6 & 7 Vict. c. 94; 29 & 30 Vict. c. 87; 38 & 39 Vict. c. 85; 41 & 42 Vict. c. 67; now repealed and consolidated by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

‡ Printed in "Hertale's Treaties," Vol. 14, p. 1170.

§ Printed in "Hertale's Treaties," Vol. 14, p. 1171.

|| Printed in "Hertale's Treaties," Vol. 14, p. 1177.

*Part I.—Preliminary**Chapter I.**Short Title.*

1. This Order may be cited as "The Cyprus Courts of Justice Order, 1882."

Abolition of existing Tribunals.

2. From the time when this Order shall come into operation the several Nizam Courts (that is to say, the Temyiz Court at Nicosia, and the Daavi Courts of the several Cazas or Districts of Cyprus) and the Commercial Court at Larnaca, and, so far as is by this Order directed, the several Mussulman religious tribunals existing in Cyprus shall cease to exercise jurisdiction.

Definitions.

3. In the construction of this Order, unless there is anything in the subject or context repugnant thereto, the several words herein after mentioned shall have or include the meanings following (that is to say):—

"Secretary of State" shall mean one of Her Majesty the Queen's Principal Secretaries of State.

"Ottoman Law" shall mean the law which was in force in Cyprus on the 13th day of July, 1878.

"English Law" shall mean the Common Law, the Rules of Equity, and the statutes of general application, which were in force in England on the 21st day of December, 1878.

"Cyprus Statute Law" shall mean all laws in force in Cyprus by virtue of any Order of Her Majesty the Queen in Council or by virtue of any enactment of the High Commissioner with or without the advice of the Legislative Council.

"Action" shall include all proceedings of a civil nature before any Court.

"Criminal Proceeding" shall mean any proceeding instituted against any person to obtain punishment of such person for any offence against the law.

"Civil Proceeding" shall include all proceedings other than criminal proceedings.

"Ottoman Action" shall mean an action in which the defendant is or all the defendants are an Ottoman subject or Ottoman subjects.

"Foreign Action" shall mean an action in which the defendant or any defendant is not an Ottoman subject.

"District Court" shall, as regards foreign actions, mean the President of a District Court sitting alone.

"Village Judge" includes a president or ordinary judge of a District Court acting as a village judge.

"Prescribed" shall mean prescribed by Rules of Court.

"Rules of Court" shall include forms.

"Oath" shall include affirmation and declaration.

"Pound" shall mean pound sterling.

"Peace Officer" shall mean and include the Chief Commandant, local Commandants, and every other member of the Police Force of Cyprus and every other person lawfully authorised to discharge police duties.

"Police Constable" and "Constable" shall mean and include every member of the Police Force of Cyprus not being an officer thereof and every other person lawfully authorised to discharge police duties.

Part II.—Constitution of Courts.

Chapter II.—Courts.

Supreme Court.

4. There shall be established in Cyprus a Court to be called "The Supreme Court," to be constituted of two or more judges, one of whom shall be designated the Chief Justice and the other or others the Puisne Judge or Puisne Judges of the said Court.

The Chief Justice shall be the President of the Supreme Court.

District Courts.

5. There shall be established in each of the *Cazas* or administrative divisions of Cyprus, a Court to be called the District Court of such *Caza*, which shall exercise jurisdiction within such *Caza*, and shall be constituted of three judges, of whom one shall be designated the President, and the two others ordinary judges. One of the ordinary judges of each District Court shall be a Christian and the other a Moslem.

Assize Courts.

6. There shall be established for each *Caza* a Court of Criminal Jurisdiction, to be called an Assize Court, and to be constituted of one or more judges of the Supreme Court and either two or more judges or the President only of the District Court of such *Caza*. In every Assize Court the Chief Justice, or in his absence the Puisne Judge or the Senior Puisne Judge of the Supreme Court present, shall be the President of the Court.

For the trial of charges against Ottoman subjects an Assize Court shall include not less than two, and whenever practicable all the three judges of the District Court of the *Caza*.

For the trial of charges against persons who are not Ottoman subjects an Assize Court shall not, unless the accused so desire, include any ordinary judge of a District Court; but a person who is not an Ottoman subject may claim to be tried by the same tribunal as if he were an Ottoman subject.

For the trial of charges of treason, murder, manslaughter, and any offence punishable with imprisonment for life, an Assize Court shall include two judges of the Supreme Court.

Magisterial Courts.

7. There shall be established for each Caza Magisterial Courts, to be constituted of the President of the District Court of such Caza sitting alone, or the two ordinary judges of such District Court sitting together without the President.

The High Commissioner in Council may from time to time, by order published in the Cyprus Official Gazette, establish additional Magisterial Courts. Every such order shall define the area within which the Court thereby established shall exercise jurisdiction. Every such additional Magisterial Court may be constituted of a single judge or two or more judges.

Village Judges.

8. There shall be established in Cyprus such number of village judges as the High Commissioner shall direct.

Formation of Judicial Divisions.

9. The High Commissioner shall with the advice of his Executive Council divide Cyprus into so many sub-districts or divisions as shall be necessary for providing areas within which village judges shall exercise jurisdiction.

Of the sub-districts or divisions to be so formed six shall be formed so as to include the chief town of a Caza, and the remainder shall be formed in such manner as shall appear convenient for the administration of justice.

Every sub-district or division so formed is hereinafter referred to as a "judicial division."

Who to act as Village Judge.

10. Every ordinary judge of a District Court shall exercise the jurisdiction of a village judge within the judicial division in which is situate the town where such District Court usually holds its sittings.

For each of the remaining judicial divisions there shall be appointed a village judge who shall exercise jurisdiction within the limits thereof.

The President of each District Court shall exercise the jurisdiction of a village judge within the limits of the Caza, of which it is the District Court.

Court when duly Constituted.

11. Every Court hereby established shall be deemed to be duly constituted during and notwithstanding any vacancy in the office of any of the judges thereof.

*Chapter III.—Appointments.**Judges of Supreme and District Courts.*

12. Every Judge of the Supreme Court or of a District Court, shall be appointed by an instrument in writing under the Public Seal of Cyprus from time to time by the High Commissioner,

in accordance with such instructions as he may receive from Her Majesty, and shall hold his office during the pleasure of Her Majesty, subject to suspension by the High Commissioner in like manner as other officers in Cyprus. Provided that in case the office of any such judge shall become vacant by death or otherwise, it shall be lawful for the High Commissioner to appoint by commission under the Seal of Cyprus another fit and proper person to fill the said office so vacant until Her Majesty's pleasure be known, and in case of the temporary illness or absence of any such judge, it shall be lawful for the High Commissioner to appoint in like manner another fit and proper person to fill the office of such judge until he shall resume his duties.

Village Judges and Judges of Magisterial Courts.

13. Every village judge and every judge of a Magisterial Court to be established by order of the High Commissioner in Council as aforesaid shall be appointed by an instrument in writing under the hand of the High Commissioner, and shall be liable to be suspended or removed by the High Commissioner by a like instrument, subject to such regulations as may be provided in that behalf by the Secretary of State.

Registrars, Interpreters, and Clerks.

14. The High Commissioner shall appoint a sufficient number of competent persons to be attached to the Supreme Court and to each of the District Courts as Registrars, Interpreters, and Clerks, who shall respectively perform such duties in execution of the powers and authorities of the Court to which they are respectively attached, as may from time to time be assigned to them by Rules of Court, or subject thereto by any special order of the Court to which they are attached. The duties of all or any of the offices of Registrar, Interpreter, and Clerk, may be discharged by the same person. The Registrars, Interpreters, and Clerks of the District Courts shall be the Registrars, Interpreters, and Clerks of the Assize Courts in their respective districts, but any Registrar or Interpreter of the Supreme Court shall act as Registrar or Interpreter of any Assize Court whenever he shall be required so to do by an Order of the Supreme Court.

Sheriff.

15. It shall be lawful for the High Commissioner to appoint or nominate some person to discharge the duties of Sheriff in each of the districts of Cyprus, and in default of any such appointment or nomination the duties of Sheriff shall be discharged in each district by the Commissioner thereof.

Bailiffs and Messengers.

16.* It shall be lawful for the High Commissioner from time to time, as occasion may require, to appoint persons to perform

* This new Article 16 was substituted for the previous Article by the Order of 1902.

the duties of Messengers or Bailiffs to the Supreme Court and to the District Courts, and every person so appointed shall be liable to dismissal or removal for sufficient cause by the High Commissioner.

Chapter IV.—Sundry Provisions.

Duty of Sheriff, by whom to be performed.

17. Every duty of any Sheriff in the execution of any process of a Court may be performed by any messenger or bailiff or other person who may be authorised by the Sheriff, and any such messenger, bailiff, or other person, who is in possession of any such process shall be presumed to be duly so authorised, and shall for all the purposes of such execution be an Officer of the Court.

Seals.

18. The Supreme Court and every District Court and Assize Court shall have and use, as occasion may require, a seal or stamp bearing the style of such Court, and such device as the Secretary of State shall from time to time approve.

Every Court shall have as many duplicates of the Seal of such Court as circumstances shall require, not exceeding one such duplicate for each member of the Court other than the President.

The Chief Justice shall direct in whose custody every duplicate of the seal of the Supreme Court and of the Seals of the several Assize Courts is to be kept, and may entrust the said respective seals to such officers of the said respective Courts as he shall from time to time think fit.

The President of each District Court shall direct in whose custody every duplicate of the Seal of the Court is to be kept, and may entrust the Seal of the Court to such officer of the Court as he shall from time to time think fit.

Power to alter limits of Local Jurisdiction.

19. It shall be lawful for the High Commissioner in Council at any time, and from time to time by order published in the Cyprus Official Gazette, to alter the limits of the local jurisdiction of any District Court, or of any Judicial Division formed under the provisions of this Order, or of any Magisterial Court established by order of the High Commissioner in Council.

Part III.—Jurisdiction and Law.

Chapter V.—Transfer of Jurisdiction.

Limitation of Jurisdiction of Shéri Court.

20. From the time of this Order coming into operation the jurisdiction of the Mussulman religious tribunals known as the *Mehkémé-i-Shérie* shall be restricted to the cognisance of religious matters concerning persons of the Mussulman faith, except so far as regards matters actually pending therein at that time.

Jurisdiction of Ottoman Courts transferred.

21. All jurisdiction, criminal and civil, over all persons and in all cases heretofore within the jurisdiction of the Nizam Courts as hereinbefore defined, and of the Commerical Court at Larnaca respectively, and all jurisdiction of what kind soever over all persons and in all cases heretofore within the jurisdiction of the Mehkémé-i-Shérie, excepting the jurisdiction thereof in religious matters concerning persons of the Mussulman faith shall, subject and according to the provisions of this Order be vested and exercised by the village judges, the Magisterial Courts, the District Courts, the Assize Courts, and the Supreme Court, and the several judges of such Courts respectively.

Jurisdiction of High Court transferred.

22. All jurisdiction, criminal and civil, over all persons and in all cases heretofore within the jurisdiction of the Queen's High Court of Justice for Cyprus, shall, subject and according to the provisions of this Order, be vested in and exercised by the Magisterial Courts, the Presidents of the District Courts, the Assize Courts, and the Supreme Court, and by the consent of the parties in and by the District Courts.

Chapter VI.—Law and Practice.

Application of Ottoman Law.

23. Every Court and judge exercising civil jurisdiction in an Ottoman action, or exercising criminal jurisdiction where an Ottoman subject is accused, shall apply Ottoman Law, as from time to time altered or modified by Cyprus Statute Law.

Application of English Law.

24. Every Court and judge exercising civil jurisdiction in a foreign action, or exercising criminal jurisdiction, where a person, not being an Ottoman subject, is accused, shall apply English Law, as from time to time altered or modified by Cyprus Statute Law.

Exceptions.

25. The two last foregoing clauses shall be subject to the following provisions, viz. :—

Where in any action the parties shall agree that their respective rights are to be determined by English or by Ottoman law, as respectively altered or modified as aforesaid, the Court shall in the solution of the question at issue apply the law so agreed on.

Where in any action it shall appear to the Court that the transactions on which the action is based were so conducted as to evidence the intention of all parties thereto, that their rights in relation to such transactions should be regulated by Ottoman law or by English law as respectively modified as aforesaid, the Court shall in the solution of the question at issue apply the law by which

the parties so intended their rights to be regulated without regard to the nationality of the defendant or defendants.

Where by any Ottoman law in force in Cyprus on the 13th day of July, 1878, it is expressly enacted that every person, whether of Ottoman nationality or not, shall be subject to the provisions thereof, no person shall be exempt from the provisions of any such law by reason of his not being an Ottoman subject.

In all actions relating to immoveable property the rights of the parties shall be regulated by Ottoman law as modified or altered by Cyprus Statute Law.

Procedure.

26. Subject to the other provisions of this Order the civil jurisdiction of every Court and judge exercising civil jurisdiction in an Ottoman action, or exercising criminal jurisdiction, where an Ottoman subject is accused, shall, as far as circumstances admit, be exercised with the powers vested in and according to the course of procedure and practice observed by the Nizam Courts as established in Cyprus before the coming into operation of this Order; and the civil and criminal jurisdiction of every Court and judge exercising civil jurisdiction in a foreign action, or exercising criminal jurisdiction where the accused is not an Ottoman subject, shall, so far as circumstances admit, be exercised with the powers vested in and according to the course of procedure and practice observed by the Queen's High Court of Justice for Cyprus at the time of the coming into operation of this Order.

Power to apply Law and Procedure with Modifications.

27. For the purpose of facilitating the application of the Statute law of England, and the exercise of the powers hereinbefore mentioned, the Court or judge may construe any enactment with such verbal alterations not affecting the substance as may be necessary and proper to adapt the same to the matter before the Court: and every judge or officer of any Court having or exercising functions of the like kind with or analogous to the functions of any judge or officer referred to in any enactment, shall be deemed to be within the enactment; and when the Great Seal or any other Seal is mentioned in any enactment the same shall be read as if the Seal of the Supreme Court or any other Court, as occasion may require, were therein mentioned; and in matters of procedure documents may be written or printed on ordinary paper in the ordinary way, notwithstanding any direction in any enactment respecting writing, printing, or engrossing on vellum, parchment, or otherwise.

Part IV.—Civil Cases.

Chapter VII.—Jurisdiction of Courts in Civil Matters.

Jurisdiction of Village Judges.

28. Every village judge shall within his judicial division, and the President of a District Court acting as a village judge shall,

within the local jurisdiction of his Court, having jurisdiction to hear and determine all Ottoman actions, and, with the consent of all parties thereto but not otherwise, all foreign actions :—

- (a.) In respect of any debt, damage, or demand where the amount of such debt, damage, or demand is not more than 3*l.*, and the defendant or one of the defendants resides within such judicial division or local jurisdiction ; or
- (b.) In respect of the right of any person to the use, in common with others, of any immoveable property situate within such judicial division or local jurisdiction dedicated to the common use of the inhabitants of any place or places, or
- (c.) In respect of any claim for partition of lands situate within such judicial division or local jurisdiction, and alleged by the claimant to be held by him jointly or in common with any other person or persons.

Provided that the decision of a village judge in reference to any partition of land shall not confer upon the persons amongst whom he may partition such land any better title than such persons had thereto prior to such decision, nor shall be taken as evidence of the title of such persons.

The High Commissioner may at any time and from time to time by order to be published in the Cyprus Official Gazette direct that the jurisdiction of the village judge of any judicial division shall be so extended that he may hear and determine all Ottoman actions wherein the amount of the debt, damage, or demand is not more than 5*l.*

Every decision of a village judge shall be subject to appeal to a full District Court.

Jurisdiction of District Courts.

29. Each District Court shall have jurisdiction to hear and determine appeals from the decisions of village judges, and of the President or either of the ordinary judges of the Court acting as a village judge, when the decision shall have been given against a person resident or in respect of land situate within the local jurisdiction of such Court.

It shall also have jurisdiction to hear and determine all Ottoman actions in first instance, except such Ottoman actions as are within the jurisdiction of a village judge, or as are within the exclusive jurisdiction of a Mussulman religious Court as limited by this Order.

Jurisdiction of President of District Court in Foreign Actions.

30. The President of each District Court sitting alone shall have jurisdiction to hear and determine all foreign actions. Provided that on the application of any party to any such action, and with the consent of all other parties thereto, such action shall be heard and determined by the full District Court.

Decisions of District Courts when appealable

31. Every decision of a District Court, in any action where the demand made is in respect of money, goods, or other property, or for damages of the value or to the amount of less than 20*l.*, shall be final and conclusive, unless upon the application of any party affected by such decision, either the Court by which such decision shall have been given or the Supreme Court, shall direct that such action may be heard on appeal, in which case the same shall be heard on appeal by the Supreme Court. In all other actions the decisions of a District Court shall be liable to appeal to the Supreme Court.

Jurisdiction of Supreme Court.

32. The Supreme Court shall have jurisdiction to hear and determine all appeals from the decisions of the District Courts.

Power to Summon Assessors.

33. Subject to any Rules of Court or to any directions to be given by the Chief Justice, any Court may, in any action in which the rights of the parties are regulated by the Mussulman religious law, summon a judge or any person legally qualified to act as a Judge of the Mehkémé-i-Shérie to sit as an assessor on the hearing thereof, and to advise the Court on the question at issue before it; and subject as aforesaid, the Supreme Court may, on the request of the parties, or of its own motion, in any case where it shall see fit, call in any person or persons to sit as an assessor on the hearing of any action, and to advise the Court on the question at issue before it.

Power to Village Judge to Impose Fines in certain Cases.

34. Every village judge may in the exercise of the jurisdiction and authority hereby conferred on him on hearing any action for damages in respect of trespass on immoveable property, whether by cattle or otherwise, in addition to any damages he may think fit to award, impose on the defendant any fine which may be lawfully inflicted for such trespass.

Powers to be exercised generally by Courts.

35. Every District Court and the Supreme Court shall, in the exercise of the jurisdiction and authority in respect of civil actions hereby conferred on such Courts respectively, and subject to any Rules of Court, to be made under the authority of this Order, or otherwise, have power to do all or any of the following things, viz. :—

To make Orders and Injunctions without Notice.

A.—On proof of extreme urgency or other peculiar circumstances, the Court may, if it thinks fit, at any time after the issue of a writ of summons, and without notice

make an order of injunction, or an order to sequester money or goods, or to stop the clearance of a vessel, or to attach property.

Before making any such order the Court shall require the person applying for it to enter into a recognisance, with or without a surety or sureties, as the Court thinks fit, as security for his being answerable in damages to the person against whom the order is sought.

No such order shall remain in force for a longer period than shall be necessary for service of notice thereof on all persons affected thereby, and enabling them to appear before the Court and object thereto, and every such order shall, at the end of that period, cease to be in force, unless the Court upon hearing the parties or any of them shall otherwise direct; and every such order shall be dealt with in the action as the Court thinks just.

To arrest absconding Defendant.

- B.—Where an action is brought for the recovery of a sum of money exceeding 3*l.*, and it is proved that the defendant is about to abscond, the Court may, if it thinks fit, order that he be arrested and delivered into safe custody, to be kept until he gives bail or security, with a surety or sureties, in such sum, expressed in the order, as the Court thinks fit (not exceeding the probable amount of debt or damages and costs to be recovered in the action), that he will appear at any time when called on while the action is pending and until the execution or satisfaction of any order made against him, and that, in default of appearance, he will pay any money and costs which he is ordered to pay in the action.

The expenses incurred for the subsistence of the defendant while under arrest shall be paid by the plaintiff in advance, at such rate and in such amounts as the Court directs, and the total amount so paid may be recovered by the plaintiff in the action unless the Court otherwise directs.

The Court may at any time, on reasonable cause shown, discharge or vary the order.

To prevent removal of Property.

- C.—Where it is proved that the defendant, with intent to obstruct or delay the execution of any order to be obtained or already obtained against him, is about to remove any property out of the jurisdiction of the Court, the Court may, if it thinks fit, on the application of the plaintiff, order that the property be forthwith seized and secured.

The Court may at any time, on reasonable cause shown, discharge or vary the order.

To Arrest Vessel.

D.—On proof of extreme urgency or other peculiar circumstances, the Court may, if it thinks fit, on the application of a plaintiff, or of its own motion, make an order for stopping the clearance of, or for the arrest and detention of, a vessel about to leave the district other than a vessel enjoying immunity from civil process. The Court may at any time, on reasonable cause shown, discharge or vary the order.

Compensation where Order wrongfully obtained.

36. If it appears to any Court that any order made by such Court under the last foregoing clause of this Order was applied for on insufficient grounds, or if the plaintiff's action fails, or judgment is given against him, by default or otherwise, and it appears to the Court that there was no probable ground for his bringing the action, the Court may, if it thinks fit, on the application of the defendant, order the plaintiff to pay to the defendant such amount as appears to the Court to be a reasonable compensation to the defendant for the expense and injury occasioned to him by the execution of the order.

Payment of compensation under this clause shall be a bar to any action for damages in respect of anything done in pursuance of the order; and any such action, if begun, shall be stayed by the Court in such manner and on such terms as the Court thinks just.

Power to refer to Arbitration.

37. Every District Court and the Supreme Court may, with the consent of the parties, refer to arbitration the final determination of any civil action pending, or of all matters in difference between the parties on such terms and with such directions as to appointment of an arbitrator and other things as the Court may think fit, with or without security from the parties or any of them, that they will abide by the result of the reference.

In any such case the award shall be final and conclusive.

On the application of any party a decree of the Court may be entered in conformity with the award, and the decree shall not be open to appeal or re-hearing.

Every agreement for reference to arbitration and every submission to arbitration by consent, may, on the application of any party, be recorded in the Court.

The Court shall thereupon have authority to enforce the agreement or submission and the award made thereunder, and to control and regulate the proceedings before and after the award in such manner and on such terms as the Court thinks just.

Power to award Costs.

38. Every Court and village judge may direct by what party or parties all or any of the costs of any action, including the costs

and expenses incurred in and about the attendance of witnesses, are to be paid. Provided that the Court or village judge shall in no case direct the whole of the costs of any action to be paid by the successful litigant.

Enforcing obedience to Orders.

39. Every District Court, and the Supreme Court shall have power to enforce obedience to any order issued by it, directing any act to be done or prohibiting the doing of any act by fine or imprisonment or sequestration of goods, and subject to any Rules of Court to be made under the provisions of this Order or otherwise, such powers shall be exercised in conformity with the following Rules of Procedure :—

Endorsement of Order.

- (i.) Where any order is issued by any Court directing any act to be done or prohibiting the doing of any act, there shall be endorsed on the copy of it to be served on the person required to obey it, a memorandum in the words, or to the effect, following :—

“If you, the within named, A.B., neglect to obey this order, within the time therein appointed, you will be liable to be arrested and to have your property sequestered.”

Application for Order of Attachment or to show Cause.

- (ii.) Where any order has been issued by any Court directing any act to be done or prohibiting the doing of any act, and the person directed to do or prohibited from doing the act, refuses or neglects to do or abstain from doing it, according to the directions of such order, the person in whose favour such order has been given, may apply to the Court, for a writ of attachment or for an order on the person disobeying such order, to show cause why he should not be punished for the disobedience. The Court may upon such application issue such writ at once, or in the first instance make such order to show cause as aforesaid.

Service of Order.

- (iii.) In the event of the Court making such order to show cause, a certified copy thereof shall be served by any officer of the Court or peace officer, on the party to whom the order is directed. The service shall be personal.

Writ of Attachment in Default of Appearance.

- (iv.) On the return day of the order, if the person to whom it is directed does not attend, and if the Court is satisfied that the order has been duly served, the Court may order that a writ of attachment do issue against him.

Enlargement of Time for Return to Order.

- (v.) The Court may enlarge the time for the appearance of the person to whom the order is directed, or may, on the return of it, direct that the writ of attachment shall issue only after a certain time, and in the event of his continued disobedience at that time to the order, in respect of which he has been guilty of disobedience.

Proceedings on Appearance.

- (vi.) If the person against whom such order to show cause shall have been made shall not establish a sufficient excuse for not attending, or if he attends and does not show cause to the satisfaction of the Court why he should not be punished for disobedience, the Court may order him to pay such fine, or to be committed to prison for such time as the Court directs.

Conditional Order of Commitment.

- (vii.) The Court may order that a person committed to prison for disobedience to an order, shall be detained in prison till he has obeyed such order, in all things that are to be immediately performed, and given such security as the Court thinks fit to obey the other parts of the order, if any, at the time or times when they are to be performed.

Warrant of Commitment.

- (viii.) Whenever any such order of commitment shall have been made, the registrar shall issue, under the seal of the Court, a warrant of commitment, directed to the proper officer of the Court, who by such warrant shall be empowered to take the body of the person against whom such order shall have been made, and all police constables and other peace officers, within their several jurisdictions, shall aid in the execution of every such warrant, and the gaoler or keeper of every gaol or prison mentioned in any such order shall be bound to receive and keep therein the person against whom such order of commitment shall have been made, until he shall be discharged by due course of law.

Writ of Sequestration.

- (ix.) In case the person against whom a writ of attachment has issued is not and cannot be found, the Court may make an order that a writ of sequestration do issue against his property. The said writ shall bind his immoveable property from the date of the order in the same manner, and to the same extent in every respect, as a decree for sequestration in a civil action.

Form and Execution of Writ of Sequestration.

- (x.) The writ of sequestration shall be directed to two or more persons to be appointed by the Court for that purpose, who shall be commanded and empowered to enter upon all the immoveable property of the person against whom the writ shall issue, and to collect, take, and get into their hands not only the rents and profits of his said immoveable property, but also all his goods, chattels, and moveable property, and detain and keep the same under sequestration in their hands until he shall appear before the Court and clear his contempt, or the Court shall make other order to the contrary.

And the Court may order payment out of the proceeds of such sequestration of all charges attending the execution thereof, including such reasonable remuneration to the persons appointed to carry out the same as the Court shall think fit to allow.

Costs.

- (xi.) In all proceedings against any person for disobedience of the order of a Court, the Court before which such proceedings are taken shall make such order as to the costs thereby occasioned as to the Court shall seem just.

Power to Supreme Court to Re-hear Decisions of the Temyiz Court.

40. It shall be lawful for the Supreme Court, in its discretion, at any time within one year from the time when this Order comes into effect, upon the application of any party to any action that shall have been instituted in any Ottoman Court in Cyprus after the 13th day of July, 1878, and shall have been subsequently heard on appeal and decided by the Temyiz Court at Nicosia, if on such application it shall appear to the Court that the final decision in such action is not justified by the facts or is contrary to law, and that the rights of the applicant have been prejudiced thereby, and that, notwithstanding the execution of such final judgment and the time that has elapsed since such execution, it is possible that right may be done between the parties, to direct that a summons shall issue calling upon the successful party or parties to the action to show cause why the action should not be re-heard before the Supreme Court, and the Court may, upon hearing all parties interested who shall appear, or in default of the appearance of such parties, or any of them, make such order directing the re-hearing or otherwise as it may deem just. Provided that no such application as aforesaid shall be entertained where the judgment complained of shall have been given in respect of property not exceeding 50*l.* in value, or shall have decreed payment of any sum not exceeding 50*l.*, and the Court shall not direct any summons to issue except upon the applicant giving security to the satisfaction of the Court for the payment of all costs, damages, and expenses which may be occasioned to any

other person or persons whatsoever by reason of such application, and of any proceedings the Court may direct to be taken thereunder or any order the Court may make thereupon.

Upon re-hearing any such action the Court shall give such judgment as in its opinion ought to have been given by the Temyiz Court, and may direct all or any of the cost to be paid by the applicant, whether he shall obtain judgment on such re-hearing or not.

Appeal to Privy Council.

41. Any person or persons may appeal to Her Majesty, Her heirs, and successors in Her or their Privy Council, from any final judgment, decree, order or sentence of the Supreme Court in such and the same manner, and within such and the same time, and under and subject to such and the same rules regulations and limitations as are prescribed with respect to appeals to Her Majesty in Council from the Queen's High Court of Justice for Cyprus, and the Court of Temyiz at Nicosia, by an Order of Her Majesty in Council bearing date the 15th day of July, 1881.*

Chapter VIII.—Modification of Law and Practice.

Judgment to be binding without Communication.

42. Every judgment of a District Court or of the Supreme Court in an action shall, subject to any direction contained therein to the contrary, and notwithstanding that the same shall have been made in default of pleading or of appearance of any party, be binding on all parties to the action immediately on the making thereof, and notwithstanding any appeal against the same, but the Court by which such judgment is given, or any Court having jurisdiction to hear such judgment on appeal, may at any time, if it shall so think fit, and whether an order for execution shall have been issued or not, direct that execution of such judgment be suspended for such time and subject to terms or otherwise as to such Court may seem just.

Actions by Government.

43. Action by the Government of Cyprus against any private person shall, except as by law otherwise provided, be brought in the name of the Queen's Advocate, and, subject to any rules of Court, shall be carried on in the same manner in every respect as suits between private parties.

Actions against Government.

44. No claim against the Government of Cyprus shall be entertained in any Court, unless it be a claim of the same nature as claims which may be preferred against the Crown in England, under the provisions of the Act, 23 and 24 Vict., chap. 34, intituled The Petitions of Right Act, 1860.

* Printed at p. 319 above.

Except where it is by law otherwise specially provided, every claim which may be lawfully made against the Government of Cyprus may, with the consent of the High Commissioner, be preferred in any District Court in an action instituted by the claimant as plaintiff against the Queen's Advocate as defendant.

Government not to be Called on for Security for Costs, &c.

45. No person representing the Government of Cyprus in any action shall be called upon to give security for costs, or that he will abide by the decision of the Court or other security.

Modification of Ottoman Procedure.

46. Subject to any Rules of Procedure to be hereafter made, whether under the authority of this Order or otherwise, the Ottoman Civil Procedure shall be governed by the following regulations :—

- (a.) Every action shall be commenced by writ of summons issuing out of the Court on the application to the Court by the plaintiff.
- (b.) Every writ of summons shall be endorsed with a statement of the nature of the claim made, or of the relief or remedy required in the action.
- (c.) The plaintiff may prepare the endorsement of claim on his writ of summons himself, or may state his complaint verbally to the proper officer of the Court, who shall thereupon prepare the same for him.
- (d.) The Court may at any stage of the proceedings allow the plaintiff to amend the writ of summons in such manner and on such terms as may seem just.
- (e.) Every judgment of the Court may be executed immediately after the same shall have been drawn up, and without communication to the person against whom the same is made, and shall be executed in the same manner as heretofore, save that an order of the Court directing execution shall, in the case of execution by sale of moveable property, be delivered by the Court to the bailiff or other person authorised to act for the sheriff, and, in the case of execution by sale of immoveable property, shall be delivered by the Court to the officers of the Land Registry Office, or other proper authority, without transmission through the sheriff of the district or other executive officer.
- (f.) Any order of the Court addressed to the sheriff shall be sufficient authority for any officer of the police, or for any bailiff, or for any officer of the Land Registry Office, or any duly authorised person for doing anything thereby directed to be done.
- (g.) Every petition of appeal, and every copy thereof to be served upon the parties affected thereby, shall be deposited with the registrar of the Court against whose

judgment the appeal is made, and such Court shall thereupon serve the copies deposited upon all necessary parties, and forward the petition of appeal to the Supreme Court.

The parties to the appeal shall present themselves to the Court of Appeal at the time specified in pursuance of the request in that behalf contained in the petition of appeal, and unless any party to the appeal requires that a written statement of the grounds of appeal shall be put in, the appeal may be heard without further formality; but in case any party requires such statement to be put in, written statements shall be put in in conformity with article 112 of the Ottoman Code of Procedure, and the time for putting in any such statement may be at any time enlarged by leave of the Supreme Court.

If any appellant shall fail to appear before the Supreme Court at the time fixed as aforesaid, any respondent may apply to have the appeal dismissed, and the Court shall make such order thereon as seems just. At any time after all parties shall have appeared in manner aforesaid, and if no written statement has been required to be put in, any party to the appeal may apply to have the appeal set down for hearing. If a written statement of the grounds of appeal has been required to be put in, any party may so apply at any time after the opposite party shall have put in his written statement, or shall have made default in doing so within the time allowed him for that purpose.

Chapter IX.—Procedure before Village Judge.

Rules.

47. Subject to any rules of Court to be made under the authority of this Order or otherwise, cases before village judges shall be regulated by the following Rules of Procedure:—

Action to Commence by Writ of Summons.

- (i.) Except in any case where the parties between whom there shall be any matter in dispute shall voluntarily appear before a village judge for the settlement thereof, all actions before a village judge shall be commenced by writ of summons.

Form and Preparation of Writ.

- (ii.) The writ of summons shall be prepared by the village judge on the statement of the plaintiff, and shall state the name, place of abode, and calling of the plaintiff, the name and place of abode of the defendant, and the date on which the writ is issued. It shall also state

shortly the nature of the claim made and the relief sought, and the place where the action is to be heard, and the day and hour when it is to be heard ; and it shall be signed by the judge by whom it is issued.

Service in First Instance.

- (iii.) The summons shall be handed to the plaintiff who shall in the first place serve the same, or cause the same to be served upon the defendant with all reasonable speed.

Time for Appearance.

- (iv.) The day to be specified in the summons for the appearance of the parties before the Court shall be not less than ten days after the date of such summons, and such summons shall be served upon the defendant at least five days prior to the day fixed for the hearing of the action.

Proceedings on Appearance.

- (v.) On the appearance of the parties before the village judge at the time named, such judge shall explain to the defendant the nature of the plaintiff's claim and the relief sought by him ; and, if the defendant shall dispute the claim, shall hear and receive any evidence the plaintiff may adduce and his argument in favour of his claim ; and if he shall consider such claim proved shall call upon the defendant to make his defence, and shall thereupon hear and receive his evidence and argument.

After or at the time of hearing the parties, he may put to the parties or their respective witnesses such questions concerning the matter at issue as he may think necessary, and shall then close the case.

A village judge may adjourn the hearing of an action from time to time as occasion shall require, and at the close of the case shall give judgment as he shall think right.

Proceedings in default of Appearance

- (vi.) If the plaintiff fails to appear at the time appointed by the summons for the hearing, the action shall be dismissed. The plaintiff may apply for a new summons, to be issued after such dismissal, but no person shall be entitled to more than three writs of summons in respect of the same cause of action. If the defendant fails to appear at the time appointed by the summons, the village judge shall call upon the plaintiff to prove that the summons has been served on the defendant, and if the plaintiff cannot prove that the summons

has been served in due time, or that he has been unable to effect service thereof, or that there is some other good reason why it has not been so served, the judge shall dismiss the action, and the plaintiff shall have the same right to issue new summonses as in the case where his action is dismissed in default of his appearance.

If it appears that the plaintiff has been unable to serve the summons, or that there is some other good reason why it has not been served, the village judge may direct in what manner service shall be effected, or may appoint some person to serve the summons for the plaintiff and may adjourn the hearing until such time as it shall be possible to serve the defendant with the summons or with notice thereof, and to bring the parties before him. If the plaintiff shall prove that the summons has been served on the defendant in due time, the village judge shall, on the plaintiff establishing the justice of his claim to the satisfaction of the judge, give judgment in his favour accordingly, either for the whole claim or such part thereof as he shall consider the plaintiff to have proved himself entitled to.

Hearing on Request of Parties without Summons.

- (vii.) In any case where there shall be any matter in dispute or difference between any two or more persons, such persons may voluntarily present themselves before the village judge who shall hear the several parties interested, without issuing any summons. The hearing shall be conducted in the same manner as nearly as circumstances will admit as the hearing of an action commenced by writ of summons, and when the judge shall have heard the several parties and the evidence adduced by them respectively, he shall give such judgment on the case as he shall think just.

Judgment and Service of Notice thereof.

- (viii.) The judgment of a village judge shall, on the request of the successful litigant, be drawn up, and a copy or copies thereof issued to such successful litigant. Every judgment of a village judge, when drawn up, shall state the names, places of abode, and occupations of the several parties to the action, and shall state, as shortly as may be, what documents, if any, were adduced in evidence, and the names and descriptions of the witnesses, if any, examined, and shall set out the terms of the judgment, and shall be dated as on the day when judgment was given. The successful litigant may, in case the party or parties against whom judgment is given fail to comply with the order thereby made, serve a copy of the judgment, when drawn up, on every such party, and demand the performance by every

such party of the order, and in case of the non-performance of any such order, by any party, for a period of fifteen days after the date of such order, the successful litigant may report the same to the village judge.

Proceeding to obtain Execution.

- (ix.) The village judge shall, upon receiving a report that a copy of a judgment given by him has been served on any party to the action, and a demand made on such party to obey the order made by such judgment, and that he has failed to obey such order for a period of fifteen days after demand, and upon the person making such report establishing the truth thereof to him, endorse on a copy of the judgment a certificate under his hand, that such copy is a true copy of his judgment: that a copy has been served on the party so defaulting, and that the defendant has failed to obey the order thereby made within the time allowed him, and shall deliver the judgment so endorsed to the person making such report.

The successful litigant may at any time after the judge shall have made such certificate, present the same to the District Court of the district in which the defaulter resides, and such Court shall, without further proceedings, make such order or orders of execution upon the judgment of the village judge as if it had been a judgment issuing out of the District Court.

Service.

- (x.) Service of a summons or judgment shall be effected by handing the same to the person to be served therewith, or tendering it to him, and informing him that it is a summons or judgment of the village judge addressed to or affecting him, or by leaving it at his usual place of residence; and if any person shall prove to a village judge that he has handed a summons or judgment to any person named therein or affected thereby, or that he has tendered such summons or judgment to the party to be served therewith, and informed him that it is a summons or judgment of the village judge addressed to or affecting him; or if he shall prove that the person to be served with such summons or judgment is residing in his usual place of residence, or in the village in which such usual place of residence is situate, or in the immediate neighbourhood thereof, and that the summons or judgment to be served on him has been left at such usual place of residence, every such proof shall be sufficient proof of service.

Village Judge to give Verbal Explanation to Parties.

- (xi.) Every village judge shall, on issuing any writ of summons or judgment, explain verbally to the party to whom it is issued in what manner and within what time the same should be served, and the directions therein contained.

Costs.

- (xii.) In disposing of any action before him, a village judge may in his discretion direct that all or any of the costs incurred by any party to the action in whose favour the judgment may be, shall be paid by the party or parties against whom such judgment may be given, or may direct that every party shall bear his own costs; and in default of any such direction contained in the judgment, the party in whose favour judgment shall be given shall be entitled to recover from the party against whom such judgment may be given his fees of Court and all reasonable expenses incurred in the action which shall be taxed by the village judge in case the parties differ as to the amount so recoverable.

Dismissal of an action, whether by default or otherwise, shall be deemed to be judgment against the plaintiff.

Appeals.

- (xiii.) An appeal against a judgment of the village judge shall operate as a stay of execution against such judgment.

Every appeal against a decision of a village judge shall be made within fifteen days from the time when the judgment shall have been served on the party desiring to appeal against the same.

Every person desiring to appeal against a decision of a village judge shall, within the time limited for appealing as aforesaid, appear before the village judge by whom the judgment was given, and give notice to him of his intention to appeal against the same. He shall deliver to such judge the copy of the judgment which has been served upon him, and the judge shall thereupon endorse thereon a certificate of the date when such notice of appeal was given to him, and shall return the copy of the judgment so endorsed to the appellant. The appellant shall, within thirty-one days from the date of such notice, present the copy of the judgment so endorsed to the District Court having jurisdiction to hear the action on appeal, and the action shall then be heard in the District Court in the same manner as nearly as circumstances will admit, as if it were an original action commenced therein on the demand of the appellant.

No appeal shall be entertained in a District Court unless the judgment of the village judge, endorsed with the certificate of notice of appeal, shall be presented to such District Court within the time aforesaid.

Part V.—Criminal Cases.

Chapter X.—Jurisdiction of Courts and Judges thereof in Criminal Cases.

Jurisdiction of Magisterial Court.

48. Every Magisterial Court shall have jurisdiction summarily to try all complaints of offences committed within the local jurisdiction of the District Court of which the person or persons constituting such Magisterial Court is or are the President or ordinary judges, or within the local jurisdiction of such Magisterial Court as defined by the order establishing the same, which are punishable with imprisonment for any term not exceeding one month, or with fine not exceeding 5*l.*, or with both of such punishments, and to receive complaints of all other offences, and thereupon to investigate the same, with power to dismiss any such complaint, or to commit the accused for trial before the proper Court. Provided that no charge against a person who is not an Ottoman subject shall, unless with the consent of the accused, be brought either for summary trial or for preliminary examination before a Magisterial Court consisting of two ordinary judges of a District Court.

Provided also that if a complaint is brought before a Magisterial Court of an offence committed within the local jurisdiction of such Court and punishable with imprisonment for any term exceeding one month but not exceeding three years, or with fine exceeding 5*l.*, or with both such punishments, and the accused is willing that the case shall be tried summarily by such Magisterial Court, and the Court is of opinion that the accused, if convicted, will be adequately punished by a sentence of imprisonment for a term not exceeding one month or a fine not exceeding 5*l.* or both, such Court may summarily try the case, and, if it convicts the accused, may impose such sentence of imprisonment for any term not exceeding one month, or fine not exceeding 5*l.* or both, as it may think just and adequate.

Where, on the summary trial of any offence before a Magisterial Court, consisting of two judges, the members of the Court disagree as to the guilt or innocence of the defendant, the defendant shall be discharged. And where on the preliminary investigation of any charge before any such Court the members thereof disagree as to whether the accused ought to be committed for trial or not, the accused shall be discharged, but may at any time be brought up on the same charge before the President of the District Court for preliminary examination, without the production of further evidence.

The powers hereinafter conferred upon Magisterial Courts of

adjourning the hearing of cases either on summary trial or on preliminary enquiry and of making such Orders and issuing such Warrants as may be necessary in consequence of such adjournment may be exercised by any Member of a Magisterial Court whenever from any cause the full Court shall not be present.

Jurisdiction of District Court.

49. Each District Court shall have jurisdiction to try all charges against Ottoman subjects for offences committed within the district assigned to such Court, which are punishable with imprisonment for any term not exceeding three years, or with fine of any amount, or with both of such punishments.

Jurisdiction of Assize Courts.

50. The Assize Courts shall have jurisdiction to try all charges of offences committed to Cyprus.

Jurisdiction of Supreme Court.

51. The Supreme Court shall, subject to the provisions of this Order, have jurisdiction to hear and determine appeals from the decisions of Assize Courts and of District Courts in criminal cases, and to hear and determine questions of law reserved for its opinion by such Courts respectively.

Chapter XI.—Sundry Provisions.

No one to be tried twice for same Offence.

52. No person shall be tried twice for the same offence ; provided that a preliminary enquiry into any charge before a Magisterial Court shall not be deemed to be a trial.

On Trial Court to Acquit or Convict.

53. Every Court hereby authorised to try complaints or charges of offences shall upon the trial of every such complaint or charge either acquit the accused or convict him, and upon such conviction impose such punishment as the law directs, and the circumstances of the case may in the opinion of such Court require.

Civil Remedy not to be Suspended by the fact that the Act is a Criminal Offence.

54. From the time when this Order shall come into operation, no civil remedy which any person may have against any other person for any act or omission shall be suspended or in any way affected by the fact, that such act or omission amounts to a criminal offence ; but if upon any civil proceeding other than a proceeding before a village judge, it appears to the Court that the act or omission for which the action is brought amounts to a criminal offence, the Court may give the same directions and take the same measures

for the prosecution of the defendant as are hereinafter authorised with regard to persons who appear to the Court to have given false evidence.

55. Every Magisterial Court may, in the exercise of the jurisdiction hereby conferred on such Courts respectively—

promote reconciliation, and encourage and facilitate the settlement in an amicable way of proceedings taken for assault, or for any other offence being of a private or personal character, and not amounting to an offence which under English law would be a felony, on terms of payment or compensation or other terms approved by the Court, and may thereupon order the proceedings to be stayed.

Part VI.—Criminal Procedure.

Chapter XII.—Preliminary Provisions.

When Magisterial Courts may compel Appearance.

56. Every Magisterial Court and every member thereof may issue a warrant or summons as hereinafter mentioned for compelling the attendance before such Court of a person charged with having committed or been party to an offence, for the purpose either of summarily hearing or determining the charge made against such person, or for the purposes of the preliminary enquiry hereinafter provided for.

- (a.) If the offence is alleged to have been committed within the local jurisdiction of the Court.
- (b.) If the person alleged to have committed such offence is alleged to reside or be within such local jurisdiction.
- (c.) If the person against whom process is issued is alleged to have unlawfully received property which was unlawfully obtained from any place within such local jurisdiction, or by any person residing or being within such local jurisdiction.

Where Warrants may be Executed.

57. Any warrant for the apprehension of any person issued under the provisions hereinafter contained may be executed by apprehending such person wherever he is found in Cyprus.

Person arrested on Warrant may be brought before Court of District in which he is arrested.

58. If the complainant, or any of the witnesses on the part of the prosecution, are in the district where the person against whom a warrant is issued is apprehended, the officer or other person who apprehends such person may take him before a Magisterial Court of that district, and such Court may thereupon either direct him to be brought before the Court by which or by a judge of which the warrant was issued, or proceed as if it had itself issued the warrant.

*Chapter XIII.—Proceedings to Compel Appearance.**Summary arrest of Persons found Committing Offences.*

59. Any person who is found committing any offence being within the offences defined in Articles 3 and 4 of the Ottoman Penal Code, or any similar offence under the law of England, may be apprehended by any person whatsoever without warrant, if the person making such arrest has reasonable grounds to believe that the offender may escape punishment or may complete the commission of the offence if he is not so apprehended.

Summary arrest of Persons suspected of having Committed Offences.

60. Any judge, sheriff, police constable, or peace officer, may without warrant arrest in any part of Cyprus any person whom he suspects on reasonable grounds of having committed any offence defined by Article 3 of the Ottoman Penal Code, or any similar offence under the law of England.

Any person whatever may without warrant arrest any such person if such an offence has actually been committed, but not otherwise.

Any person to whom any property is offered to be sold, pawned, or delivered, and who has reasonable ground to suspect that any offence has been or is about to be committed on or with respect to such property, may, and, if he can, shall, without warrant, apprehend the person offering the same, and take possession of the property so offered.

Disposal of Persons arrested without Warrant.

61. Every person who arrests any person under any of the provisions hereinbefore contained shall (if the person making the arrest is not himself a peace officer) deliver the person so arrested to some constable or other peace officer, in order to his being conveyed as soon as reasonably may be before a Magisterial Court, to be dealt with as hereinafter mentioned, or himself convey him before a Magisterial Court as soon as reasonably may be.

Charge.

62. Any person who believes upon reasonable and probable cause that an offence has been committed by any person may make a complaint or charge thereof to a Magisterial Court having local jurisdiction according to the provisions herein contained.

Summons or Warrant.

63. The Magisterial Court may, upon receiving such complaint or charge, issue in its discretion either a summons or a warrant to compel the attendance before it of the accused person. Any summons or warrant may be issued on Sunday.

If a warrant is issued in the first instance, the complaint or charge shall be in writing, and shall be made upon oath either by the complainant or by a witness or witnesses. If a summons

is issued in the first instance, the complaint or charge may be by words spoken and without oath.

The validity of any proceedings hereinafter mentioned shall not be affected either by any defect in the complaint or charge or by the fact that a summons or warrant was issued without complaint or charge.

Whenever any person has made or given to any Magisterial Court a complaint or charge in writing and upon oath as aforesaid, he may, if the Magisterial Court refuse to issue either a summons or a warrant under the provisions herein contained, require such Magisterial Court to give to him a written certificate of such refusal, and may apply to the Supreme Court, or to any judge thereof, for an order directing such Magisterial Court to issue a summons or warrant accordingly.

Contents of Warrant.

64. Every such warrant shall be under the hand or hands of the judge or judges issuing the same, and may be directed either to any constable or other peace officer by name, or generally to all constables or peace officers in Cyprus. It shall state shortly the offence with which the person against whom it is issued is charged, and shall name or otherwise describe such person, and it shall order the person or persons to whom it is directed to apprehend the person against whom it is issued, and bring him before the Court issuing the warrant or before some other Court having the same local jurisdiction to answer to the charge therein mentioned, and to be further dealt with according to law. It shall not be necessary to make such warrant returnable at any particular time, but it shall remain in force until its execution.

Irregularities in Warrant Immaterial.

65. No irregularity or defect in the substance or form of the warrant, and no variance between it and the written complaint or information or between either and the evidence adduced on the part of the prosecution at the preliminary inquiry hereinafter mentioned, shall affect the validity of any proceedings at or subsequent to the hearing of the case, but if any such variance appears to the Magisterial Court to be such that the accused has been thereby deceived or misled, such Magisterial Court may at the request of the accused adjourn the hearing of the case to some future day, and in the meantime remand the accused, or admit him to bail, in manner hereinafter mentioned.

Contents of Summons. Service of Summons.

66. Every summons shall be directed to the accused, and shall require him to appear before a Magisterial Court having local jurisdiction, at a time and place to be therein mentioned. It shall state shortly the offence with which the person against whom it is issued is charged.

Every such summons shall be served by a constable or other

peace officer upon the person to whom it is directed, either by delivering it to him personally, or by leaving it with some person for him at his last or most usual place of abode, and may be served anywhere in Cyprus.

The person by whom the summons is served as aforesaid shall attend at the time and place specified therein for the appearance of the person summoned, in order if necessary to prove its service.

Warrant if the Person Summoned does not appear.

67. If the accused does not appear at the time and place appointed by the summons, any Magisterial Court having local jurisdiction may issue a warrant to apprehend him, and to cause him to be brought before such Court. But no such warrant shall be issued without a complaint or charge in writing and on oath. The provisions hereinbefore contained as to warrants shall apply to every such warrant.

Chapter XIV.—Procedure before Magisterial Court on Summary Trial.

Summons in First Instance.

68. Whenever any charge of an offence within the summary jurisdiction of a Magisterial Court has been made against any person, the Court shall, for compelling the appearance before it of such person, ordinarily issue a summons, and shall not, except for some special reason to be stated on the minutes, issue a warrant in the first instance.

Upon issuing a summons the Court shall inform the person making the charge of the time and place appointed in and by such summons for the appearance of the accused.

Parties may appear by Advocation.

69. The complainant and accused may respectively appear, either personally or by their respective advocates, but it shall be lawful for the Court at any stage of the proceedings to order that any of the parties shall attend personally.

Proceedings on Non-appearance of Accused.

70. If at the time and place appointed in and by the summons aforesaid for his appearance the accused shall not appear when called, the constable or other person who shall have served him with a summons in that behalf shall then declare upon oath in what manner he served the said summons; and if it appear to the satisfaction of the Court that the summons was duly served, in that case the Court may proceed to hear and determine the case in the absence of the accused; or the Court may, if it thinks fit, issue its warrant in manner hereinbefore directed, and shall in that case adjourn the further hearing of the said charge until the accused shall have been apprehended, but no such warrant shall be issued unless the charge be made in writing and on oath.

Proceedings on Arrest.

71. When any person charged with an offence within the summary jurisdiction of a Magisterial Court shall be apprehended under a warrant, he shall be brought before a Magisterial Court, which shall thereupon by its warrant commit him to prison, and order him to be brought up at a certain time and place, before any such Court, of which order the complainant shall have notice.

Appearance of Accused.—Non-appearance of Complainant.

72. If at the time appointed for the hearing of the case the accused shall attend, in obedience to the summons in that behalf served upon him, or shall be brought before the Court by virtue of any warrant, then if the complainant, having had such notice as aforesaid, do not appear by himself or his advocate, the Court shall dismiss the charge, unless for some reason it shall think proper to adjourn the hearing of the case unto some other day, upon such terms as it shall think fit, and may, pending such adjourned hearing, either admit the accused to bail or remand him to prison, or take such security for his appearance as the Court may think fit, but shall not commit him to prison unless the charge has been made in writing and on oath.

Appearance of both Parties.

73. If at the time appointed for the hearing of the case both the accused and the complainant appear, either personally or by their respective advocates, before the Court, which is to hear and determine the charge, then the Court shall proceed to hear and determine the case.

Adjournment.

74. Before or during the hearing of any case, it shall be lawful for the Court in its discretion to adjourn the hearing to a certain time and place to be then appointed, and stated in the presence and hearing of the party or parties or their respective advocates then present, and in the meantime the Court may suffer the accused to go at large, or if the charge has been made in writing and on oath, but not otherwise, may commit him to prison, or may discharge him upon his entering into a recognisance, with or without surety or sureties at the discretion of the Court conditioned for his appearance, at the time and place to which such hearing or further hearing shall be adjourned.

Provided that no such adjournment shall be for more than eight clear days, the day following that on which the adjournment is made being counted as the first day.

Proceedings on Adjourned Hearing in Default of Appearance.

75. If at the time or place to which the hearing or further hearing shall be adjourned, the accused shall not appear before the Court which shall have made the order of adjournment, it

shall be lawful for such Court to proceed to the hearing or further hearing as if the accused were present, and if the complainant shall not appear either personally or by his advocate, the Court may dismiss the charge, with or without costs, as the Court shall think fit.

Hearing.

76. Where the accused shall be present at the hearing the substance of the charge shall be stated to him, and he shall be asked if he have any cause to show why he should not be convicted, or why an order should not be made against him, and if he thereupon admit the truth of the charge, and show no sufficient cause why he should not be convicted, or why an order should not be made against him, the Court shall convict him, or make an order against him accordingly.

If the accused do not admit the truth of the charge, the Court shall proceed to hear the complainant, and such witnesses as he may examine, and such other evidence as he may adduce in support of his charge.

If after hearing the witnesses called in support of the charge the Court shall be of opinion that the guilt of the accused is not established, or that there is no ground for making any order against him, he shall be acquitted and discharged. But if after hearing the witnesses in support of the charge the Court shall be of opinion that there is evidence upon which the accused should be convicted of an offence, or that an order should be made against him, the Court shall call upon him to make his defence, and thereupon shall hear him and such witnesses as he may examine, and such other evidence as he may adduce in his defence.

If after hearing the witnesses for the defence the Court shall be of opinion that there is no sufficient ground for convicting the accused of any offence, or for making any order against him, the complainant or his advocate shall be entitled to examine further witnesses on any subject which shall have been raised by the accused as a defence to the charge, and on which no evidence shall have been called by the complainant in the first instance, save that no such further witnesses shall be examined by the complainant or his advocate where the accused shall have examined witnesses or adduced evidence only as to his general character, nor shall any further evidence be heard in any case on behalf of the complainant with reference to the general character of the accused.

The complainant shall not be entitled to make any observations in reply upon the evidence given by the accused, nor shall the accused be entitled to make any observations in reply upon the evidence given by the further witnesses who may be examined by the complainant as aforesaid.

Conviction and Judgment.

77. If the Court convict or make an order against the accused a minute thereof shall be made, and the conviction or order shall

afterwards be drawn up under the hand or hands of the judge or judges by whom he same shall be made. Every such form of conviction or order shall be entered in a book to be kept for that purpose, and the Court may at any time, after making such conviction or order, issue all such warrants and further orders as may be necessary for carrying such conviction or order into execution.

Dismissal of Charge.

78. If the Court shall dismiss the charge, it shall be lawful for the Court, if it shall think fit, being required so to do, to make an order of dismissal of the same. Every such order of dismissal shall be under the hand or hands of the judge or judges by whom it was made, and shall be entered in a book to be kept for that purpose.

The accused shall be entitled on demand to receive a copy of such order, certified by the Registrar as a true copy, and such certified copy upon being produced shall without further proof be a bar to any subsequent charge for the same matter against the same person.

Costs.

79. In all cases of conviction by, or order made by a Magisterial Court, it shall be lawful for the Court in its discretion, to award, and order in and by such conviction or order that the accused, shall pay to the complainant such costs as to the Court shall seem just; and in cases where such Court shall dismiss the charge, it shall be lawful for the Court in its discretion, in and by its order of dismissal, to award and order that the complainant shall pay to the accused such costs as to the Court shall seem just.

The sums so allowed for costs shall in all cases be specified in such conviction, or order, or order of dismissal aforesaid.

General Power to Regulate Procedure.

80. On hearing any case within its summary jurisdiction every Magisterial Court shall have power in its discretion to regulate the course of the inquiry in any way which may appear desirable, and which is not inconsistent with the provisions of this order.

Chapter XV.—Appeals against Sentences of Imprisonment on Summary Conviction.

Appeals from Magisterial Court to Supreme Court.

81.* When any person is adjudged by a conviction or order of a Magisterial Court to be imprisoned without the option of a fine, either as a punishment for an offence, or, save as hereinafter mentioned, for failing to do or abstain from doing any act or thing required to be done or left undone and such person does not admit the truth of the charge, such person may appeal to the Supreme

* This new Article 81 was substituted for the previous Article 81 by the Order of 1902.

Court, provided that he shall immediately after sentence has been pronounced declare to the Court by which he has been convicted his desire to appeal.

Provided always that this clause shall not apply where the imprisonment is adjudged for failure to comply with an order for the payment of money, for the finding of sureties, for the entering into any recognisance or for the giving of any security.

Whenever any person convicted as aforesaid declares his intention to appeal in accordance with the provisions of this clause, a note of such declaration shall thereupon be entered on the notes of the proceedings by a member of the Court.

Procedure on Appeal.

82.* The provisions of The Criminal Appeal Law, 1889, or any Law amending or substituted for the same with regard to the procedure to be followed on appeals from the decisions of District Courts and with regard to the powers of the Supreme Court on the hearing of such appeals shall be applicable to appeals from Magisterial Courts, subject to the following modifications:—

(a.) The file of the proceedings required by section two of the said Law to be forwarded to the Registrar of the Supreme Court shall, in appeals from a decision of a Magisterial Court, be forwarded by the Registrar of the District Court of the District within which the Magisterial Court has jurisdiction, and shall consist of the summons or warrant, the notes of the evidence taken by the Magisterial Court, and any statement which may have been made by the appellant before the Magisterial Court, together with any document which may have been put in evidence of which the Magisterial Court has the custody, or certified copies of any of them of which the Court has not the custody.

If the Registrar is not able to forward the originals or copies of any of such documents he shall furnish a statement of the reason why he is unable to do so.

(b.) For the purposes of this Order the expression "District Court" in the said Law shall be taken to include the Magisterial Court by which the appellant was convicted, and the word "information" in the said Law shall be taken to include the charge upon which the appellant was convicted.

Chapter XVI.—Of Preliminary Enquiries before a Magisterial Court.

Court to hold Preliminary Enquiry.

83. Whenever any charge has been brought against any person of an offence not triable summarily by a Magisterial Court, a preliminary enquiry shall be held according to the provisions hereinafter contained by the Magisterial Court, locally and otherwise competent.

* This new Article 82 was substituted for the previous Article 82 by the Order of 1902.

Proceedings on Appearance of Accused.

84. When the accused appears or is brought before the Magisterial Court, the said Court shall take the evidence of the witnesses called in support of the charge offered on the part of the prosecution.

The evidence of the said witnesses shall be given as by this Order provided in the presence of the accused, and he or his advocate shall be entitled to cross-examine them upon facts relevant to the charge, but not unless the Court shall think it necessary or desirable upon matters relevant only as affecting their credit.

As the evidence is given, the substance of it shall be taken down in writing in the form of a narrative, provided that the whole or any part of it may be taken down if the Court thinks fit in the form of question and answer. The evidence of each witness so taken down is hereinafter called a deposition.

Calling on the Accused for his Defence.

85. As soon as the Magisterial Court considers that evidence of the guilt of the accused sufficient to justify his committal has been given, the Court shall declare its intention to commit him for trial, unless he shows cause why he should not be committed.

Evidence to be read to the Accused.

86. When the Magisterial Court has expressed such conditional intention to commit the accused as aforesaid, the depositions of the witnesses shall be read over to the accused, the witnesses being present, or not, as may be most convenient. When the depositions have been read over to the accused, he shall be addressed by the Court in these words, or to the like effect :—

“Having heard the evidence, do you wish to say anything in answer to the charge? You are not bound to say anything; but whatever you do say will be taken down in writing, and may be given in evidence against you at your trial.”

Whatever the accused then says in answer thereto shall be taken down in writing, and shall be signed by the judge or judges constituting the Court and kept with the depositions of the witnesses, and dealt with as hereinafter mentioned.

The accused or his advocate may then show cause why the Court should not commit him for trial.

Calling Witnesses for the Defence.

87. After the proceedings required by the last preceding section are complete, the accused shall be asked if he wishes to call any witnesses. Every witness whom he may call who testifies to any fact relevant to the case shall be heard, and his deposition shall be taken in the same manner as the depositions of the witnesses for the prosecution.

Discretionary Powers of Magisterial Court.

88. The Magisterial Court may in its discretion :—

- (a.) Permit or refuse permission to the prosecutor or his advocate to address them in support of the charge

either by way of opening or summing up the case, or by way of reply upon any evidence which may be produced by the accused.

- (b.) Receive further evidence on the part of the prosecutor after hearing any evidence given on behalf of the accused.
- (c.) Adjourn the hearing of the matter from time to time and place to place, if from the absence of witnesses, the inability of a witness who is ill to attend at the place where the Court usually sits, or any other reasonable cause, it appears desirable to do so, provided that no such adjournment shall be for more than eight clear days, the day following that on which the adjournment is made being counted as the first day.
- (d.) Order that no person shall have access to or remain in the room or building in which the enquiry is held, if it appears to them that the ends of justice will be best answered by so doing.
- (e.) Regulate the course of the enquiry in any way which may appear to them desirable, and which is not inconsistent with the provisions of this Order

Committal or Discharge.

89. When all the witnesses on the part of the prosecution who are offered or whom the Court thinks it necessary to hear, and when all the witnesses produced by the accused who know any fact or circumstance relevant to the case have been heard respectively, the Magisterial Court shall either discharge the accused, if it appears to the Court that the evidence given is not sufficient to put him upon his trial; or if it appears to the Court that the evidence is so sufficient, the Court shall commit him for trial by the District Court of the district in which the offence is alleged to have been committed if the offence is triable by a District Court, and if the offence is not triable by a District Court, then by an Assize Court for the same district; provided that if a person is brought before a Magisterial Court charged with an offence committed out of the local jurisdiction of such Court, but in Cyprus; and if the Court thinks the evidence produced before it insufficient to put the accused upon his trial, the Court shall not discharge the accused, but shall order him to be taken before a Magisterial Court having jurisdiction in the place where the offence is alleged to have been committed, by a person to whom the Court so ordering shall give a warrant for that purpose. Such Court shall deliver to the said person the information and complaint, depositions, and recognisances, taken by it under the provisions of this Order, to be by him delivered to the Magisterial Court before which the accused is to be taken, and such depositions and recognisances shall be deemed to have been taken in the case, and shall be dealt with in the manner hereinafter provided for as to other depositions and recognisances; provided also that the fact that a person has been discharged upon a preliminary enquiry shall not prevent

any Magisterial Court from holding another such enquiry if there appears good cause for doing so.

Committal for False Evidence.

90. Any Court hereinafter mentioned to which it appears that any person has given false evidence in any proceeding before it, may either commit such person for trial by the Court having jurisdiction to try the offence, or admit him to bail as hereinafter mentioned.

Every such Court may bind over any person to give evidence against such offender, in the manner hereinafter provided for in other cases of persons committed by a Magisterial Court for an offence beyond its summary jurisdiction.

Every such Court may also direct any such offender to be taken into custody, and to be taken before a Magisterial Court, and such Magisterial Court shall thereupon deal with the case in all respects in the same manner as if such offender had been brought before it otherwise.

The Courts which shall have power to commit for trial under this clause shall be the Supreme Court, every Assize Court, every District Court, every President of a District Court sitting alone in civil cases, and every Magisterial Court.

Trial to be before next Sitting of Competent Court.

91. All persons committed for trial before any Court shall be committed for trial at the next sitting of such Court.

Any trial may be postponed if such postponement appears expedient for the interests of justice.

Order to change Place and Mode of Trial.

92. The Supreme Court may make any of the orders hereinafter mentioned upon the application of any person who has been committed for trial for any offence, or on the application of the Queen's Advocate, that is to say :—

(a.) An order that such person shall be charged or tried before any competent Court other than the Court before which, but for such order, he would have been tried.

(b.) An order that the case shall be tried as a civil action.

No order for changing the place of the trial shall be made unless the Court is of opinion that an impartial trial cannot be had otherwise, or that some question of law of more than usual difficulty and importance is likely to arise at the trial, which can be more properly decided if the order is made than would otherwise be possible, or that the change would be convenient for the public or for the witnesses or for the parties.

Every order for changing the place of trial shall specify the Court by which the case is to be tried, and it shall be tried in all respects as if the accused had been committed to trial before that Court.

The person on whose application any such order is made shall forthwith give notice thereof to the Queen's Advocate or to the accused, as the case may be, and to every person bound over to give evidence, and to every person who has given bail for the appearance of the accused, and to the person who at the time when the order is made is in possession of the depositions and other documents hereinafter mentioned relating to the case. Such notice may be given by serving an office copy of the order on the person to whom it is to be given.

No order shall be made for the trial of any offence as if it were a civil action, except in the following cases :—

- (i.) If the defendant is charged with a common assault, a defamatory libel, or a common nuisance.
- (ii.) If the Court making the order is of opinion that the principal object for which the charge is made is to decide some matter of law or private dispute or to recover a money penalty only.

If any such last-mentioned order is made, the hearing shall take place in the same manner with respect to the competency of witnesses, the admissibility of evidence, the taking of evidence, new trials, appeals, and costs, as though it were a civil action, but nothing herein contained shall affect in any other way the power of the Court to pass any sentence, or do any other thing which it might have passed or done if no such order had been made.

Whenever any order is made under this section the Court or judge making it may impose such terms as may seem reasonable on the person at whose instance it is made as to bail, the payment of any costs incurred in consequence of the order, or any other matter.

*Court affected by Order to take Judicial Notice of it.—
No proof to be required.*

93. When an order is made under the last preceding clause, the Court whose procedure is affected by it shall, upon its production act upon it, unless such Court has reason to doubt whether such order is genuine, in which case it shall satisfy itself as to the authenticity of such order by any means which it thinks proper, but neither the prosecutor nor the accused shall be entitled to require proof of any such order or to dispute or bring in question its existence at any stage of the proceedings or at any subsequent time.

Chapter XVII.—Preparation of Evidence for the Trial.

Procuring Attendance of Witnesses.

94. If it is proved by the oath of one witness before any Magisterial Court by which a preliminary examination is held or is to be held, that any person is likely to give material evidence either for the prosecution or for the accused, and will not voluntarily appear for the purpose of being examined, the Magisterial Court

shall issue a summons to such person, under the hand or hands of the judge or judges of the Court, requiring such person to appear before the Court, at a time and place mentioned in such summons to give his evidence respecting the charge.

Summons, how Served.

95. Every such summons shall be served upon the person to whom it is addressed either personally or by leaving the same for him with some person at his last or most usual place of abode.

Warrant if Witness Fail to Appear. Warrant in First Instance.

96. If any person so summoned neglects or refuses to appear at the time and place appointed by the said summons, and no just excuse is offered for such neglect or refusal, then (after proof upon oath of such summons having been served as aforesaid), the Magisterial Court before whom such person ought to have appeared, may issue a warrant under the hand or hands of the judge or judges of the Court to bring such person at a time and place to be therein mentioned before the Court in order to testify as aforesaid. If the Magisterial Court is satisfied by evidence upon oath that it is probable that any person will not attend to give evidence without being compelled so to do, then, instead of issuing a summons it may issue a warrant in the first instance. All provisions hereinbefore contained as to the execution of warrants for the arrest of accused persons shall apply to every such warrant.

Witnesses Refusing to be Examined.

97. If any person being before any such Magisterial Court refuses to be examined according to law, or to answer such questions concerning the charge as shall then be put to him, without offering any just excuse for such refusal, the Court may, by warrant under the hand or hands of the judge or judges constituting such Court, commit the person so refusing to prison for any time not exceeding seven days, unless he shall in the meantime consent to be examined and to answer.

Depositions to be Read to Witness.

98. The deposition of every witness called either for the prosecution or by the accused shall be read over to and signed by the witness and by the judge, or one of the judges before whom the evidence was taken, the accused, the witness, and the judge by whom the deposition is signed, being all present together at the time of such reading and signing.

When Depositions may be Given in Evidence.

99. Every document produced to the Court before which the trial is had by or from the custody of the proper officer as a deposition shall be presumed to be a deposition, and if it purports to have been

taken upon oath, and to have been taken by or before a Magisterial Court by any of the judges of which it purports to have been signed, and to have been signed by the judge or one of the judges before whom it purports to have been taken, it shall be presumed to have been so taken, read, and signed, and to have been duly read over to the witness in the presence of the accused until the contrary is proved, although it may not have been signed by the witness.

If it is proved at the trial to the satisfaction of the Court that any witness whose deposition purports to have been taken on oath, and to have been signed by the judge or one of the judges, by or before whom it purports to have been taken is dead, or is so ill or in such a state of mind as not to be able to testify (although there may be a prospect of his recovery), or that he is kept out of the way by the accused, or that he is absent from Cyprus; and if it is proved that the deposition was taken in the presence of the accused, and that he or his advocate had a full opportunity of cross-examining the witness, the deposition may be read in evidence, unless it is proved that it was not taken on oath, or that it was not duly taken or signed by or before the judge by or before whom it purports to have been taken or signed, or that it was not read over to the witness in the presence of the judge by whom it purports to be signed, and of the accused.

A deposition shall not be inadmissible in evidence only because it is not signed by the witness by whom it was made.

The statement and examination of the accused may be given in evidence at the trial either by the prosecution or by the accused, if it is proved to have been taken in accordance with the provisions of this order, or if it purports to have been so taken and is not proved not to have been so taken.

Copy of Depositions.

100. Every person who has been charged with any offence shall, upon the completion of the preliminary enquiry, be entitled to have from the officer who has custody thereof, on payment of a reasonable fee, copies :—

- (a.) Of the depositions.
- (b.) Of the statement and examination of the accused.
- (c.) Of any documents which may have been put in in evidence at the preliminary enquiry.

Witness to be bound over to give Evidence.

101. When any person is committed for trial, the Magisterial Court, which holds the preliminary enquiry, shall bind over by personal recognisance every witness examined before it, either for the prosecution or for the defence, to give evidence at the Court before which the accused is to be tried; provided that the evidence given by such witnesses is material to the case, and tends to prove the guilt or innocence of the accused and is not evidence to character only.

Every such recognisance shall be acknowledged by the person

entering into the same and shall be subscribed by the Magisterial Court or one at least of the judges before whom it is acknowledged, and a notice thereof signed by such judge, shall at the same time be given to the person bound thereby.

Every such recognisance shall bind the person entering into it to give evidence not only before the Court before which the accused is committed to be tried, but before any other Court before which the trial may be directed to be had by competent authority, and not only at the trial so had, but also at any subsequent trial under any of the provisions hereinafter contained, provided that notice is given to such witnesses of any such other or further trial.

Transmission of Documents.

102. The following documents shall be transmitted to the officer of the Court before which any person committed for trial is to be tried, that is to say, the charge, if any, the depositions or examination of witnesses, the statement and examination of the accused, all recognisances entered into by the accused, his sureties, or the witnesses, and all other documents relating to the offence. The said documents shall be transmitted by the Magisterial Court before which the preliminary examination is held, or if the place of trial is changed by lawful authority after such transmission is made, then by the person who at the time when the order is made is in possession of them. When any order changing the place of trial is made, the person applying for it shall serve it, or an office copy of it, upon the person then in possession of the said documents, who shall thereupon transmit them accordingly.

Witness refusing to be bound over may be imprisoned.

103. Any witness who refuses to enter into or acknowledge any such recognisance as aforesaid, may be committed by the Magisterial Court by a warrant to prison, there to be kept until after the trial of the person accused, or until the witness enters into such a recognisance as aforesaid before a Magisterial Court having jurisdiction in the place where the prison is situate, provided that if the accused person is discharged, any Magisterial Court having local jurisdiction may order any such witness to be discharged.

Taking Deposition of Witness who is Ill, &c.

104. If it is proved upon oath before any Magisterial Court that any person in any district in or for which such Court may act is dangerously ill, not likely to recover, and unable to travel, and that such person is able and willing to give material information as to any offence beyond the summary jurisdiction of a Magisterial Court with which any person has been charged before any Magisterial Court (whether the preliminary enquiry has or has not been held or is in progress, but not after the accused has been discharged), the first-mentioned Court may take the deposition of such person in the manner hereinbefore prescribed, and shall,

after taking it, sign it, adding to it by way of heading, a statement of the reason for taking it, and of the day and place on and at which it was taken, and of the names of the persons, if any, present at the taking thereof.

If such deposition relates to an offence, the preliminary enquiry into which has ended, the Magisterial Court taking it shall send it to the officer of the Court before which the trial is to be had. If it relates to an offence with which some person has been charged, and as to which a preliminary enquiry is in progress, the Court which takes the deposition shall send it to the Court before which such enquiry is being carried on, by which it shall be forwarded to the officer of the Court before which the trial is to take place.

Every deposition so taken shall be a deposition taken in the case to which it relates, and shall be admissible in evidence on the same conditions as other depositions, provided that if any such deposition relates to an offence committed by any person who has been committed for trial, it shall be admissible against him, although it may have been taken in his absence, and may not have been read over to the witness in his presence, and although neither he nor his advocate, nor any person on his behalf, had an opportunity of cross-examining the witness, if it is proved that the accused, having such notice as is hereinafter provided for, that such deposition was about to be taken, refused or neglected to be present, or to cause his advocate, or any person on his behalf to be present when it was taken.

Whenever it is intended to take any such deposition as aforesaid, reasonable notice that it is intended to take it must, if the accused is in prison, be served upon him, or if he is on bail, must be either served upon him or left at his last or most usual place of abode. If the accused is in prison, the Court by which the prisoner was committed, or the Commissioner of the district, may by an order in writing direct the gaoler having the custody of the accused to convey him, or cause him to be conveyed to the place where the deposition is to be taken, for the purpose of being present when the same is taken, and to take him back to prison when it has been taken, but no accused person shall be taken to any such place for such a purpose without his consent. The expenses of such conveyance shall be paid out of the funds applicable to the expenses of the prison from which the accused is taken.

Power to take Evidence by Commission.

105. Any President of a District Court may, in any criminal case in which it appears necessary for the purposes of justice to do so, make any order for the examination upon oath before any officer of the Court, or any other person or persons, and at any place within or without Cyprus, of any witness or person, and may order any deposition so taken to be filed in the Court, and may empower either the prosecutor or the accused to give such deposition in evidence on such terms as such President may direct. An appeal shall lie from any order made under this section to the Supreme Court.

Search Warrant.

106. Any judge of a District Court or of the Supreme Court may issue a warrant under his hand, authorising the person to whom it is addressed to search any building, place, or thing whatever for anything on or in respect of which any offence has been or is suspected to have been committed, or which there is reasonable ground to suspect is intended to be used for the purpose of committing any offence, and to seize any such thing and carry it before any Magisterial Court in the district in which the judge issuing the warrant has jurisdiction, to be dealt with according to law ; provided that before issuing any such warrant the judge issuing it must be satisfied by the oath of some informant that there is reasonable ground to suspect that the thing to be searched for exists, and that it is in the building, place, or thing which the warrant authorises to be searched.

The judge issuing any such warrant shall authorise the person to whom it is addressed to execute it either between the hours of sunrise and sunset, or may, if he thinks fit, authorise such person to execute it at any hour.

If under any such warrant there is brought before any Magisterial Court any forged document, or anything of which the use or possession is unlawful, in the absence of some lawful excuse to be proved by the person in possession thereof such Court may cause such thing to be defaced or destroyed, although no person may be committed for trial in respect thereof.

Chapter XVIII.—Of the Custody of Accused Persons.

Accused to be Committed to Prison, Bailed, or Discharged.

107. Every person who appears before a Magisterial Court on a charge of having committed an offence not triable summarily by a Magisterial Court, shall, unless and until he is discharged, be either committed to prison or bailed, or set at liberty on his own recognisances, according to the provisions hereinafter contained.

Taking Bail Discretionary.

108. Every person charged with any offence, except high treason or murder, who can find sureties sufficient in the opinion of the Court to secure his appearance when it is required, may be bailed at any stage of the proceedings, if in its discretion the Court thinks proper to bail him.

No person charged with high treason shall be admitted to bail at any stage of the proceedings, except by order of the High Commissioner or one of the judges of the Supreme Court. Any person charged with any offence other than high treason may be admitted to bail by order of the Supreme Court.

At what Stages of the Proceedings Bail may be Taken.

109. Any Court before which any person charged with an offence is tried, and any Magisterial Court before which he appears

may admit such person to bail, or to be at large on his own recognisance at each of the times, and on the conditions following, that is to say :—

- (a.) Whenever the preliminary enquiry or trial (whether summary or otherwise) is for any reason adjourned or interrupted, or if anything happens which makes or may make it necessary that a new trial should take place, the accused may be admitted to bail, or be set at liberty on his own recognisance, on condition to appear at the time to which the enquiry or trial is adjourned, or till the new trial takes place. If he fails to appear, the Court before which he ought to have appeared may endorse on his recognisance a certificate of non-appearance, which shall be *primâ facie* evidence of his not having appeared.
- (b.) When the preliminary enquiry is finished, the accused may be admitted to bail or set at liberty on his own recognisance, on condition to appear at the time and place of trial, and that he will then surrender and take his trial, and not depart the Court without leave. Every such recognisance shall bind the person who enters into it, that the accused shall do what is required of him, not only at the place mentioned in the recognisance, but at any other place at which he may be ordered to be tried.
- (c.) When the accused has been convicted, or an order has been made against him, and the Court thinks proper not to pass judgment till a future time, or to suspend the execution of its judgment or order until any matter is decided by the Court of Appeal having jurisdiction, the accused may be admitted to bail or set at liberty on his own recognisance. In such cases the condition of the recognisance of the accused and his sureties shall be that the accused, if permitted to appeal, shall prosecute the appeal with effect, and that in any event he shall personally appear in Court on the day on which judgment is given in the said Court of Appeal, and also, if ordered by such Court or a judge thereof, on the day and at the time appointed for any proceeding in the said appeal, and so from day to day, and not to depart that Court without leave, and to render the accused to prison, or otherwise obey any order of the Court upon the said appeal. Provided that the accused shall not be required to attend on any other day than the day when judgment is given, unless four days' notice of the order for his attendance is given either to him or to any person whom he may have authorised to act for him or to his sureties personally or by leaving the same at his or their last known place of abode.

If the accused is upon his conviction admitted to bail or set at liberty on his own recognisances, the recognisances shall be

taken by the Court which tried him, and shall be by it transmitted to the Court before which the appeal is to be heard.

If the accused is not then admitted to bail, or set at liberty as aforesaid, the recognisances may be taken before a judge of the Court before which the appeal is so to be heard.

Whenever such recognisance is taken notice shall be given to the accused and to his bail of what they are bound to do in respect thereof.

In what Cases and How the Accused may be Committed to Prison.

110. Any accused person who is not admitted to bail under the provisions of the last preceding section shall be committed to prison for safe custody for the time for which he might have been bailed, and by the Court by which he might have been bailed subject in the case of persons so committed by a Magisterial Court to the following provisions :—

If such Court adjourns the preliminary enquiry under the provisions hereinbefore contained, it may by its warrant remand the accused to prison until the time appointed for continuing the enquiry.

Such Court may, whilst the accused is under remand, before the expiration of the period for which he has been remanded, order him to be brought before it, and the gaoler or officer in whose custody he then is shall obey the order.

Committal of the Accused.

111. When the Court has determined to commit for trial any accused person who is not admitted to bail, it shall by warrant commit him to prison, to be there safely kept until he shall be delivered thence by due course of law.

Conveying Person Committed to Prison.

112. The constable or other person to whom the warrant of commitment is directed shall convey the accused to the prison, and shall there deliver him, together with such warrant, to the keeper or governor of the prison, who shall thereupon give such constable or other person a receipt for such prisoner, which shall set forth the condition in which such prisoner was when he was delivered into the custody of such keeper or governor.

Bail of Persons unable to Procure Bail on Committal.

113. If any person who in the opinion of the Court before whom he is charged or tried ought to be bailed, is committed to prison only because he does not at the time of his committal find sufficient sureties, such Court may at any time, on the application of the accused or any person on his behalf offering sufficient sureties to the satisfaction of the Court order him to be brought before the Court, together with the order of committal, and the gaoler or officer in whose custody he is shall obey the order, and the Court may thereupon admit the accused to bail.

Warrant of Deliverance.

114. When any Court admits to bail any person who has been committed to prison before the time at which the keeper of the prison is by the order of committal directed to bring such person before the Court, such Court shall send or cause to be lodged with the keeper of such prison a warrant of deliverance requiring the keeper to discharge the person so admitted to bail if he be detained for no other offence: and upon such warrant of deliverance being delivered to or lodged with such keeper, he shall forthwith obey the same.

Custody of Accused in case of Change of Place of Trial.

115. If an order is made for changing the place at which any person is to be tried;

- (a.) He shall (if in custody) remain in the custody in which he is till the beginning of the sittings at which he is to be tried. He shall then be taken to the prison in which other prisoners who are to be tried before the Court by which he is to be tried are confined till their trial, and shall be confined there in the same way, and shall be subject to the same liabilities in all respects, and shall be brought before and removed from the Court in the same manner as such prisoners.
- (b.) Every person whose place of trial has been changed shall be in lawful custody so long as he is under the charge of the keeper of the prison to which he was originally committed, or of any person duly authorised by him, or under the charge of the keeper of the prison to which he is removed, or of any person duly authorised by him wherever he may be, whilst every part of the provisions hereinbefore contained is being carried out, and whilst he is being moved from place to place for that purpose, or whilst he is under confinement in any prison, or in any place through which he is being removed for the purpose of any reasonable delay in his journey.

Estreating Recognisances.

116. Every recognisance or bail bond entered into in pursuance of this Order shall contain an acknowledgement on the part of every person entering into the same that he owes to Her Majesty the Queen, Her heirs and successors, a sum of money to be therein specified to be levied of his moveable and immoveable property in case any person shall make default in performing the conditions of any such recognisance or bail bond by which he may be bound to do anything relating to any trial or hearing before any Court, and if any person shall so make default such Court shall without further process make such order as to estreating or putting in

process any such recognisance or bail bond as it thinks just, and no officer of any such Court shall estreat or put in process any such recognisance without the written order of such Court.

Chapter XIX.—Information and Process thereon.

No one to be Tried except on Information.

117. No person shall be put upon his trial for any offence not triable summarily by a Magisterial Court, although he may have been committed for trial as hereinbefore mentioned, unless and until he has been accused thereof by an information filed by or on behalf of the Queen's Advocate in the Court in which he is to be tried.

Every such information shall contain such particulars as hereinafter provided for, and shall be subject to the provisions as to amendment and otherwise hereinafter contained.

Accused may Apply for Copy of Information.

118. Any person who has been committed for trial for any offence may apply to any judge of the Court before which he is to be tried for an order upon the registrar of such Court to provide him with a copy of the information upon which he is to be tried.

Warrant on Non-Appearance at Trial.

119. When any person against whom an information has been filed, and who is then at large, does not appear to plead to such information, whether he is under recognisances to appear or not, the Court or any two judges forming part of the Court before which he ought to have been tried may issue a warrant for his apprehension, which shall be subject to all the provisions respecting other warrants hereinbefore contained.

Chapter XX.—Trial on Information.

Bringing the Accused before the Court.

120. When a person has been accused by information of any offence in the manner hereinbefore mentioned, and when the time for his trial has come, he shall be brought before the Court before which he is to be tried, and the nature of the charge against him shall be stated to him by the proper officer, and he shall, if he requires it, and if he has not had a copy of the information, be permitted to read or to have read to him the information against him.

Provided that if the case is ordered to be tried as a civil action, or in other cases in which the Court so orders, the accused need not appear or plead in person, but may deliver a plea in writing to the officer of the Court at such time as the Court directs, either specially or by any general rule made under the powers in this Order contained.

If any person against whom any information is filed is at the

time of his trial in prison under a warrant of commitment or under sentence for some other offence, the Court may by order in writing direct the governor of the prison to bring up the body of such person in order that he may be brought before the Court in manner aforesaid, and the governor shall obey such order.

Time to Plead.

121. When any person is called upon to plead to an information he may apply to the Court for further time to plead, and the Court, if it sees fit, may allow such time upon such terms as it thinks proper.

Pleas.

122. When the accused is called upon to plead, he may plead guilty or not guilty, or any such special plea as is specified in the provisions relating to pleading in criminal cases hereinafter contained; in which latter case such proceedings shall be had thereupon as are hereinafter provided for.

If the accused pleads guilty, the Court shall proceed as if he had been convicted by the judgment of the Court. If the accused pleads not guilty, the Court shall proceed in the manner hereinafter prescribed.

If the accused refuses to plead the Court shall proceed in the same manner as if he had pleaded not guilty.

The Case for the Prosecution.

123. After the accused has pleaded not guilty, the advocate for the prosecution, if there is one, may open the case against the accused, and give evidence in support of the charge. If there is no advocate for the prosecution the witnesses shall be called and examined as the Court may direct. If no such evidence is given the accused shall be acquitted.

Examination of the Accused.

124. When the case for the prosecution is ended, the Court shall inform the accused, whether he is defended by an advocate or not, that he may make any statement he pleases as to the charge against him, and that if he does so he will, after he has made it, be questioned by the advocate for the prosecution, or, if there is no advocate for the prosecution, as the Court may direct.

The accused may either make a statement, or if he is defended by an advocate he may be examined by his advocate as a witness is examined in chief.

After he has been so examined, or after he has made a statement, the advocate for the prosecution may ask him questions in the same manner as if he were a witness under cross-examination; provided that such questions shall be confined to the matter in issue and matters relevant thereto, and shall not be directed to matters affecting his credit or character. The Court may ask the accused any questions which they might ask of a witness.

After the examination of the accused is ended, his advocate, if he is defended by an advocate, may ask him any questions by way of re-examination. If he is not defended by an advocate he shall be allowed to make any explanation he pleases of the statement made or answers given by him, and the Court, but not the advocate for the prosecution, may ask him questions thereon.

The accused shall not be sworn as a witness, or be liable to any punishment for making false statements, either before or during, or after his examination.

Case for the Defence.

125. When the case for the prosecution is ended, the accused or his advocate may address the Court in his defence, and may call witnesses in answer to the charge; after which either the accused or his advocate may address the Court a second time in answer to the charge.

Reply.

126. When the case for the defence is ended, the advocate for the prosecution may reply.

Notice of Evidence to Accused.

127. No witness who has not given evidence at the preliminary enquiry shall be called by the prosecutor at any trial for any offence on information, unless the prosecutor gives the accused reasonable notice in writing of his intention to call him, which notice must state the witness's name and address, and the substance of the evidence which he intends to give. The Court shall determine what notice is reasonable, regard being had to the time when, and the circumstances under which the party intending to call the witness became acquainted with the nature of the witness's evidence, and determined to call him as a witness. No such notice need be given if the prosecutor first became aware of the evidence which the witness could give on the day on which he is called.

Court may direct the Attendance of Witnesses.

128. If the Court is of opinion that any witness who is not called ought to be called, it may compel him to attend, and if it thinks proper, adjourn the further hearing of the case until he attends, and may examine or cause him to be examined at any stage of the proceedings, and in any way which it thinks conducive to the ends of justice, and may make such order as it thinks proper as to his cross-examination, and as to addresses to be made to the Court on his evidence.

Court to Consider their Judgment.

129. After the reply of the advocate for the prosecution, or, if he declines to reply, after the closing of the case for the defence,

the Court shall consider the whole case, and unless a majority of the Court consider that the accused is guilty, it shall acquit him. If a majority of the Court is of opinion that the accused is guilty, the Court shall convict him and proceed to consider what sentence shall be imposed upon him. In deciding what sentence shall be imposed, the President of the Court shall have an additional or casting vote.

Acquittal.

130. If the Court acquits the accused, he shall be immediately discharged from custody, unless he is acquitted on the ground of insanity.

Motion in arrest of Judgment.

131. If the Court convicts the accused, the officer of the Court shall ask him whether he has anything to say why judgment should not be passed upon him according to law.

The accused may move in arrest of judgment either on the ground that the information does not (after any amendment which the Court is willing to and has power to make) state any offence, or on the ground that any irregularity has taken place at the trial, by which he has been actually prejudiced, but on no other ground.

Every such motion shall be made in writing, if the accused is defended by an advocate, and if he is not defended may, if the Court thinks it necessary, be put into writing as the Court may direct, and shall be in either case entered on the record.

The Court may in its discretion either hear and determine the matter, or adjourn the hearing thereof till a time to be fixed for that purpose. If the accused has nothing to say, or if after hearing what he has to say, the Court is of opinion that judgment should be passed upon him notwithstanding, the Court may either proceed to pass sentence upon him according to law, or may postpone the passing of such sentence to a future time; or may discharge him on his own recognisance, or on his own recognisance and that of such other persons as the Court thinks fit, to appear and receive judgment when called upon.

Judgment.

132. The judgment of the Court shall in all cases be drawn up under the hands of the judges making the same, and the seal of the District Court of the district in which the trial shall have taken place, and entered in a proper book to be kept for that purpose, and all such warrants and orders shall be issued thereon, as shall be necessary for putting every such judgment into execution.

Motion in arrest of Execution.

133. If judgment of death is given against any woman, she may move in arrest of execution on the ground that she is pregnant.

If such a motion is made the Court shall direct such enquiry

as it shall think fit to be made with a view to ascertaining whether she is pregnant or not.

If upon such enquiry it appears to the Court that she is pregnant, execution shall be arrested till after the birth of her child, or until it is no longer possible in the course of nature that she should be delivered.

Adjournments.

134. From the time when the accused has pleaded the trial shall proceed continuously, unless for some sufficient reason the Court thinks proper to adjourn it.

Presence of the Accused.

135. Every person tried on information shall be entitled to be present in Court during the whole of his trial, so long as he conducts himself properly. If he conducts himself improperly the Court may, in its discretion, direct him to be removed, and proceed with the trial in his absence, making such provision as in its discretion appears sufficient for his being informed of what passes at the trial and for the making of his defence.

The Court may, if it thinks proper, permit the accused to be out of Court during the whole or any part of his trial, on such terms as it thinks proper.

Insanity of Accused.

136. If upon any person being brought before the Court for trial he appears to be insane, the Court shall direct such enquiry as it thinks fit to be made with a view to ascertaining whether he is insane or not, and if upon such enquiry the Court is of opinion that he is insane, the Court shall direct him to be detained during the pleasure of the High Commissioner.

If after trial any person is acquitted, on the ground of insanity, of any offence with which he may be charged, the Court shall direct him to be detained during the pleasure of the High Commissioner.

The High Commissioner may from time to time give such directions as he thinks fit as to the custody of any person with regard to whom any such order is made.

Stay of Proceedings.

137. The Queen's Advocate may at any time after any person has been committed for trial, and whether an information has been filed against such person or not for any offence, and before judgment is given thereon, direct the officer of the Court to which such person has been committed to enter in the record a statement that the proceedings are stayed by the direction of the Queen's Advocate, and on such entry being made all such proceedings shall be stayed accordingly, such stay of proceedings shall have the same effect as an acquittal of the accused of the offence for which he was committed for trial.

Chapter XXI.—Appeal from trial upon Information in Criminal Cases.

Special Entries at Instance of the Accused.

138. On any trial upon information other than a trial before an Assize Court including two judges of the Supreme Court, if the accused thinks that the proceedings of the Court by which he is tried are irregular or not according to law, he may either during his trial or after his conviction apply to the Court before which he is being or was tried to direct a special entry to be made on the record, showing the nature of the proceedings alleged to be irregular; and if the Court refuses to do so, he may, by leave of the Queen's Advocate, apply to the Supreme Court to order such entry to be made; but no such entry shall be made only upon the ground that the Court decided wrongly some question of law arising at the trial, except under the provisions next hereinafter contained.

If a special entry is made, it shall be drawn up by the registrar of the Court, and the prosecutor and the accused, and the advocates for the prosecution and for the defence shall be permitted to see it and copy it; and if either of them objects to its terms, it shall be settled by the presiding judge of the Court before which the case was tried, or otherwise, as the Supreme Court may direct.

Special Entries by Court.

139. If any question of law arises on the trial of any person for any offence not triable summarily, the Court may in its discretion reserve such question for the Supreme Court, except where the Court before which such case is being or was tried includes two judges of the Supreme Court. If the Court determines to reserve any such question, it shall state the question or questions reserved, with the special circumstances upon which the same has arisen, and shall direct such case to be specially entered in the record, and a copy thereof to be transmitted to the Supreme Court.

Appeals. Cases Reserved.

140. If any person who has been convicted of an offence not summarily triable obtains leave to make and causes to be made such a special entry on the record as is hereinbefore provided for, he may, by the permission of the Queen's Advocate, appeal to the Supreme Court against his conviction upon the ground that any matter stated in such special entry shows that the Court appealed from did something which it ought not to have done, or omitted to do something which it ought to have done.

If the Court by which any person is convicted of an offence not summarily triable reserves any question of law for the opinion of the Supreme Court in manner hereinbefore mentioned, the Supreme Court shall consider and determine such question, after hearing the advocates on both sides or the accused in person, if

the Queen's Advocate or the accused thinks it fit that the case should be argued.

In any of the cases aforesaid the Court may either—

Confirm the judgment of the Court appealed from ;

Or direct that the judgment of the Court appealed from shall be set aside (which shall have for all purposes the same effect as if the accused had been acquitted);

Or direct that the judgment of the Court shall be set aside, and that instead thereof, such judgment shall be given by the Court before which the trial took place as ought to have been given at the trial ;

Or if the Court has not delivered judgment, remit the case to it in order that it may deliver judgment ;

Or itself give such judgment as ought to have been given at the trial ;

Or direct a new trial if it is of opinion that there was any irregularity at the trial by which the accused was in fact prejudiced in his defence, or which made the trial unsatisfactory, or that evidence tendered or objected to by the accused was improperly rejected or admitted, and that the accused was substantially wronged or prejudiced thereby ;

Or make such other order as justice may require, provided that no conviction shall be set aside and no new trial directed only because some irregularity, not being in the opinion of the Court such as is hereinbefore referred to, took place at the trial, or because evidence was improperly admitted or rejected, by which no substantial wrong or prejudice was, in the opinion of the Court, done to the accused.

The order or direction of the Court shall be certified under the hand of the Chief Justice to the proper officer of the Court by which the case was tried, and such order or direction shall be carried into effect, and shall authorise every person affected by it to do whatever is necessary to carry it into effect.

Intermediate Effects of Appeal.

141. The execution of the sentence of a Court shall not be suspended by any such proceedings as are hereinbefore provided for :—

1. Unless the sentence is that the accused suffer death, in which case the sentence shall not be executed until the appeal or question reserved for the Court has been heard or decided, or until the expiration of such a period as may be provided for by the general rules to be made by the High Commissioner under the powers in this Order contained.
2. Unless the Court from which the appeal is made, or the Supreme Court or any judge thereof thinks fit to order either that the accused be admitted to bail,

or that he be treated as an unconvicted prisoner till the appeal is decided.

If the accused is admitted to bail, the following consequences shall follow :—

- (a.) If he has been fined and if he has paid his fine, he shall be entitled to have it repaid to him by any person in whose possession it may be upon production of the certificate of the registrar of the Court by which bail was taken that his recognisances of bail have been duly filed, but no person who has paid over the fine in due course to any other person shall be liable to repay it.

If the judgment of the Court is affirmed upon appeal, the accused shall be imprisoned till his fine is paid, although it may have been repaid.

- (b.) If upon the appeal the judgment of the Court below is affirmed, and if the judgment or part of the judgment is that the accused be imprisoned, his imprisonment shall be reckoned to begin from the day on which it would have begun if the appeal had not been made ; but if he was discharged from imprisonment on giving bail under the provisions of this order, the time for which he was so imprisoned before he gave bail shall be deducted from the term of his imprisonment

- (c.) If upon the appeal the judgment is affirmed, and if the accused is in Court, the Court may forthwith commit him to custody, to be imprisoned according to his sentence.

When a judgment of any Court directing a person to be imprisoned has been affirmed by the Supreme Court, and it is made to appear to a judge of the Supreme Court that default has been made for four days in rendering the accused to prison in execution of the judgment, such judge may issue his warrant under his hand and seal, and cause the accused to be apprehended and conveyed to prison according to the judgment. Whenever default is made in rendering any person to prison in execution of his sentence and a warrant is issued against him to enforce such render under the provisions hereof, he shall be liable to pay the costs of such render as taxed by the registrar of the Court under whose judgment he is imprisoned, and shall not be discharged from prison until the costs so taxed are paid, unless the Court by which he shall originally have been convicted shall authorise the keeper of the prison in which such person shall be to release him notwithstanding that such costs have not been paid.

Chapter XXII.—Pleading in Criminal Trials.

Information, How to be Drawn.

142. From the time of this Order coming into operation every information upon which any person is to be tried for any offence shall be drawn and amended, according to the provisions hereinafter contained.

Form of Information.

143. The information shall have a heading stating (a) the name of the Court in which the trial is to take place ; (b) the name of the accused ; (c) the date of his committal, and the name of the Court by which he was committed ; and (d) the date or dates of the taking of the depositions, and the place or places where they were taken.

The body of the information shall be in a tabular form, in separate columns.

The first column shall refer to the enactment or enactments against which the accused is said to have offended ; or if it be not an offence against any enactment, shall give the name of the offence.

When an offence is defined by one enactment and punishment is provided for it by another enactment, reference shall be made to the enactment by which punishment is provided. When an offence consists of something which is forbidden by the joint effect of more enactments than one, each shall be referred to.

The second column shall contain particulars of the offence with which the accused is charged. It shall be so framed that when it is read with the depositions or affidavits referred to in the heading of the information, the accused may know what facts are alleged to constitute the offence with which he is charged, and that if he is ever charged with the same offence in respect of the same facts, he may be able by giving evidence of the record of the information and of the depositions to prove that he was previously acquitted or convicted thereof. The particulars need not set out the facts, circumstances, and intent constituting the offence charged. No greater certainty or detail of statement as to documents, facts, things, persons, or any other subject whatever shall be necessary, or shall be used in it than is reasonably sufficient for the purpose for which it is hereinbefore declared to be intended. Facts or documents may be scheduled and copies of such documents may be attached to the information if such a course is convenient.

If the offence charged consists in doing anything with or to any property, it shall not be necessary to state that the property belonged to any particular person, and whether such a statement is made or not, it shall be sufficient to prove upon the trial such facts as to ownership as show that the accused committed the offence with which he was charged.

The names of the witnesses who appeared before the Magisterial Court, or whose affidavits were filed, shall be endorsed on the information. The officer of the Court shall make a memorandum

on the information of the date of the trial, and shall sign such memorandum, provided that no omission to do any of these things shall affect the validity of any information.

Variances.

144. No variance between the facts proved on the trial and the statement of the offence in the second column of the information, or in the depositions or affidavits, shall be material, unless the Court shall be of opinion that the accused has been actually misled and prejudiced in his defence thereby, in which case it may either direct him to be acquitted, or in its discretion amend the information under the provisions hereinafter contained, and order a new trial on such terms as it thinks fit.

Amendments of the Information.

145. The Court before which any information is tried, or any Court before which it comes on appeal, is hereby empowered and required at every stage of the proceedings to make every amendment and supply every defect in any part of the information which may be necessary, to enable it to fulfil the purpose for which it is hereinbefore declared to be intended, provided that no such amendment shall be made in such a way as to prejudice the accused in his defence, or to subject him upon conviction to a more severe punishment than he would be liable to if he were convicted on the information in its primary form. No such amendment, whether made or ordered to be made before or after the judgment, shall affect the validity of the judgment.

How Parties to Offences may be Charged.

146. Every one who is punishable by law as a party to any offence which he did not actually commit may be proceeded against by information, either for committing that offence, or for aiding or abetting any other person in committing it, or for directly or indirectly inciting any other person to commit it.

When more Persons than One may be Jointly Charged.

147. Every one who is punishable by law as a party to any offence, or as an accessory after the fact to any offence, or who is charged with receiving any property knowing it to have been obtained by any offence, may be proceeded against by information for that offence, or for being accessory after the fact thereto, or for such receiving respectively, whether the other parties to the offence have or have not been informed against or convicted, or are or are not amenable to justice, and that, either alone as for a substantive offence, or jointly with any other party or parties thereto, or with the principal offender or person by whom such property was improperly obtained.

Joinder of Counts and Procedure thereon.

148. Any number of counts either for the same or for different offences may be included in the same information, and the Court

may either convict or acquit the accused generally upon the whole information, or convict him upon one or some, and acquit him upon other counts.

If different counts relate to different facts, and if the Court thinks it conclusive to the ends of justice to do so, it may direct that the accused shall be tried separately upon any one or more of such counts. Such order may be made either before or in the course of the trial.

If the Court convict the accused generally on the whole information, the legal effect of such conviction shall be to convict him of each of the offences charged against him, and the Court may thereupon pass upon him the same sentence as if he had been separately convicted of every such offence. Provided that no more than one sentence shall in any case be passed upon any person upon the same facts.

Charge of Previous Conviction.

149. When an information contains a count charging a person with having been previously convicted, the accused shall not at the time of his being brought before the Court be required to plead to it, unless he plead guilty to the rest of the information, nor shall he be tried upon it if he is acquitted on the other counts; but if he is convicted of any other part of the information, he shall, before he is called upon to say why judgment should not be passed upon him, be asked whether he has been previously convicted as alleged, or not, and if he says that he has not, or does not say that he has, the Court shall enquire into the matter as in other cases.

Conviction of an Offence different from that Charged in the Information.

150. (a.) If part only of the whole information is proved, and the part so proved constitutes an offence, the accused may, without the information being amended, be convicted of the offence which he is proved to have committed.

(b.) If it is proved that the accused attempted to commit the offence charged in the information, but did not actually commit it, he may without amending the information be convicted of attempting to commit the offence, when such attempt is punishable by law. If he is proved to have done any act with intent to commit the offence with which he is charged, and if it is an offence to do such an act with such an intent, he may without amending the information be convicted of such last-mentioned offence.

(c.) If the Court is of opinion that there is evidence that the accused has committed an offence or offences with which he is not charged in the information, and of which he cannot be convicted without amending the information, and upon his conviction for which he would not be liable to greater punishment than he would be liable to if he were convicted on the information, and that the accused would not be prejudiced thereby in his defence, the Court may in its discretion direct a count or counts to be added to the information charging the accused with such offence or offences, and the Court shall give their judgment thereon in the same

way as if such count or counts had formed a part of the original information.

Proceeding if Evidence Proves a More Serious Offence.

151. If, upon the trial of any information it appears to the Court that there is evidence that the accused has committed an offence upon a conviction of which he would be liable to a more severe punishment than could be awarded to him upon a conviction of the offence for which he is being tried, the Court may in its discretion order an information to be filed against the accused for such first-mentioned offence, and, if necessary, bind over the witnesses to appear and give their evidence upon the trial of such information.

What Objections may be Taken to an Information and When.

152. If an information does not state, and cannot by any amendment authorised by the provisions hereinbefore contained be made to state, any offence of which the accused has had notice by depositions or affidavits under the provisions hereinbefore contained, it shall be quashed either on a motion made before the accused pleads or on a motion made in arrest of judgment.

A written statement of every such motion shall be delivered to the officer of the Court by the accused, and shall be entered upon the record.

Special Pleas.

153. It shall be lawful for any person against whom an information is filed to plead that the Court has not, and that some other Court has, jurisdiction over the offence with which he is charged, or over him, and if judgment is given in favour of the accused upon such a plea, the Court shall send the information to be tried before the Court which has jurisdiction over the offence or over the offender.

It shall also be lawful for the accused to plead :—

- (1.) That he has been previously convicted or acquitted, as the case may be, of the same offence ; or,
- (2.) That he has obtained the Queen's pardon for his offence.

If either of the two last-mentioned pleas are pleaded in any case and denied to be true in fact, the Court shall try whether such plea is true in fact or not.

If the Court holds that the facts alleged by the accused do not prove the plea, or if they find that it is false in fact, the accused shall be required to plead to the information.

Chapter XXIII.—Costs, Compensations, Restitutions.

Costs, How to be Paid.

154. The costs of every prosecution shall in the first instance be paid out of the Public Treasury of Cyprus.

All orders for the payment of costs shall be made out by the officer of the Court, and shall be delivered to the person entitled thereto

Every order for the payment of costs shall be addressed to the Commissioner of the District in which the trial is held, and every order so addressed shall be sufficient authority for every such Commissioner, and for every person acting as Treasurer for the District under the orders of the Commissioner, or otherwise, to pay the sum mentioned in the said order. And every such Commissioner and other person as aforesaid shall, upon sight of such order, pay the person named therein, or any one duly authorised to receive the same on his behalf, the money mentioned in the order, and shall be allowed the same in his accounts.

Costs of Witnesses for Defence.

155. The Court before which any information is tried may direct that the costs of such of the witnesses called for the defence as were bound over by recognisance to give evidence on the part of the accused shall be paid out of the public treasury.

When Accused may be Ordered to Pay Costs.

156. Whenever any person is convicted of any offence, the Court may order him to pay the costs of the prosecution in addition to any other sentence which may be passed upon him, and such costs shall when recovered be paid into the public treasury.

If, upon the apprehension of any such person, any money was taken from him, the Court may order the whole, or any part thereof, to be applied to any such payment.

When Costs may be Awarded to the Accused, and by whom they may be Ordered to be Paid.

157. In cases in which the accused is acquitted, and in which the Court considers that the prosecution was frivolous or vexatious, it may order any person by whom in its opinion the charge was preferred before the Magisterial Court, or any person whom it may consider responsible for having procured the information to be filed, to pay to the accused his costs.

Restitution of Property.

158. When any person is convicted of any offence by which any person has been deprived of any property whatever, the Court before which he is tried shall, if required, order the property to be restored to the owner thereof, and the owner shall thereupon be entitled to have the same delivered to him, or if it is not in Court, to take it wherever he can get it in a peaceable manner, notwithstanding any intermediate sale. Provided that nothing herein contained shall extend to entitle any person to any valuable security or to any negotiable instrument as against any person who, after the offence was committed, but without notice of it or reasonable ground to suspect that the security or instrument had been obtained by means of it, discharged or took such instrument or security for a just and valuable consideration.

This clause shall not extend to any case in which any trustee,

banker, merchant, attorney, factor, broker, or other agent is convicted of any offence committed by him as such, in respect of goods with which he was intrusted, or of which he had control, by documents of title or otherwise as such, or with respect to documents of title with which he was so intrusted as such.

When any property has been restored to any person under this clause, and when it appears to the Court that such property had, after the offence, been sold by the accused to a person who bought it in good faith and without knowledge of the offence, the Court may, upon the application of such purchaser, direct any money found on the accused, not exceeding the amount for which such property was sold, to be delivered to such purchaser.

Compensation to Persons Injured.

159. Any Court by which any person is convicted of any offence may, if it thinks fit, upon the application of any person aggrieved, and immediately after such conviction, award any sum of money not exceeding 100*l.* by way of satisfaction or compensation for the loss caused by the offence of which the accused has been convicted, to the aggrieved person for which such aggrieved person might recover damages in an action.

The amount so awarded shall be a judgment debt due from the person so convicted to the person to whom it is awarded.

Part VII.—Transfer of Pending Causes.

Chapter XXIV.—Transfer of Causes.

Transfer of Civil Cases.

160. Subject to the provisions of this Order :—

- (a.) All civil actions which at the time of this Order coming into operation shall be pending in or before any Daavi Court in Cyprus shall be transferred in the condition in which they shall then be to the District Court of the district in which such Daavi Court exercised jurisdiction.
- (b.) All civil actions which at the time of this Order coming into operation shall be pending in or before the Commercial Court of Larnaka shall be transferred in the condition in which they shall then be to the District Court of the district of Larnaka.
- (c.) All civil actions which at the time of this Order coming into operation shall be pending in or before the Temyiz Court at Nicosia shall be transferred in the condition in which they shall then be to the Supreme Court.
- (d.) All civil actions which at the time of this Order coming into operation shall be pending in the Queen's High Court of Justice for Cyprus shall be transferred in the condition in which they shall then be according to the following regulations, that is to say,—

(i.) If they shall be pending before a deputy commissioner they shall be transferred to the President of the District Court of the district in which such deputy commissioner ordinarily sat.

(ii.) If they shall be pending before the judicial commissioner they shall be transferred to the Supreme Court.

And all such actions as aforesaid, which shall be so transferred, shall be continued and concluded in the Courts to which they shall have been respectively transferred in the same manner as if they had been commenced therein.

Transfer of Criminal Cases.

161. Every criminal proceeding, which at the time of this Order coming into operation shall be pending before any Daavi Court in Cyprus, or before the Temyiz Court at Nicosia, or before any judge of the Queen's High Court of Justice for Cyprus, shall be heard and determined by such of the Courts of Criminal Jurisdiction hereby established as, under the provisions of this Order, shall have jurisdiction over the offence and the person charged therewith, and where any person shall have been already directed to be tried before the Temyiz Court, he shall be deemed to have been duly committed for trial under the provisions of this Order : and where any criminal proceeding shall have already been partly heard before a Daavi Court, the same shall be recommenced before a Magisterial Court, according to the provisions of this Order.

Execution of past Judgments.

162. Every judgment, decree, rule, or order, of any of the Nizam Courts, or of the Commercial Court of Larnaka, or of the Queen's High Court of Justice for Cyprus, which shall have been perfected before the time of this Order coming into operation, shall be executed and enforced by the order of such of the Courts hereby established as would have had cognisance of the action in which such judgment, decree, rule, or order, is made, if the same had not been perfected before the time of the coming into operation of this Order, and all process of execution, whether commenced before or after the time of the coming into operation of this Order, issued upon or for the purpose of enforcing any such judgment, rule, decree, or order, shall be carried out in the manner in which process of execution is by this Order directed to be carried out.

Records.

163. All records and proceedings of or belonging to any Daavi Court, or of any deputy commissioner for Cyprus shall become records and proceedings of the District Court of the district in which such Daavi Court exercised jurisdiction or such deputy commissioner usually sat ; and all records and proceedings of the Commercial Court at Larnaka shall become records and pro-

ceedings of the District Court of Larnaka, and all records and proceedings of the Temyiz Court at Nicosia and of the judicial commissioner, shall become records and proceedings of the Supreme Court.

Cases pending in Shéri Court.

164. Any matter which at the time of this Order coming into operation shall be pending before any Shéri Court, not being a religious matter concerning persons of the Mussulman faith, may, upon the application of any person interested therein, be transferred by the chief justice to such Court as he shall think proper.

Every order of transfer made under the authority of this clause shall be made in the same manner and subject to the same regulations, so far as applicable, as orders of transfer in other matters are by this Order directed to be made.

Part VIII.—General.

Chapter XXV.—Seals and Records.

Seals.

165. Writs of summons, orders, and other instruments issued by the Supreme Court or any District Court or Assize Court, shall be sealed with the seal of such Court.

Notes of Evidence.

166.* In every case, Civil or Criminal, before any Assize Court or before the Supreme Court, one of the Judges of the Supreme Court shall take down in writing notes of all oral evidence given before the Court.

In every such case before any District Court or the President thereof, the President, or in his absence, one of the Judges, shall take down in writing notes of all such evidence.

Provided that if the President is disabled from taking down notes of such evidence he may direct one of the Judges or the Registrar to do so, and the notes of the evidence so taken, if signed by the President and accompanied by a statement of the reason why they were not taken by the President, shall be deemed to have been duly taken.

No person shall be entitled as of right, at any time or for any purpose, to inspection or a copy of the Court's notes save as may be expressly provided by any Order or any rule of Court.

Minutes of Proceedings.

167. In every case, civil or criminal, before any such Court as last aforesaid, minutes of the proceedings shall be drawn up and shall be signed by the judge or one of the judges before whom the proceedings are taken. These minutes, with the notes of evidence taken at the hearing or trial, shall be preserved as records

* This new Article 166 was substituted for the previous Article 166 by the Order of 1902.

of the Court. The said minutes and notes of evidence, or a copy thereof, purporting to be signed and certified as a true copy by the registrar, shall at all times, without further proof, be admitted as evidence of such proceedings and of the statements made by the witnesses.

Books of Record.

168. Every Court shall keep such books as may be prescribed by rules of Court, or in default of any such rules, as may be directed by the chief justice for recording the orders and sentences, and such other proceedings of the Court as may be directed to be entered therein.

Language and Translation.

169. All matters to be recorded in the books so to be kept shall, in every Court other than a Magisterial Court, be therein recorded in English, and in any Magisterial Court they may be recorded in English or in the language of the accused. Any party to any proceedings, civil or criminal, and any person served with notice of such proceeding by order of the Court shall, on request, be furnished with a translation in English, Turkish, or Greek, as he may require of any portion of the records, a copy of which he may be entitled to have furnished to him, on the same terms in all respects as though he were only furnished with such copy. Subject to any rules of Court to be made under the authority of this Order or otherwise the translation of any part of the record shall be deemed complete notwithstanding the omission from such translation of any merely formal parts of the record.

Chapter XXVI.—Duties of Officers.

Duties of Registrar.

170. Subject to any rules of Court or to any orders to be made thereunder by any Court, the registrar in each Court shall issue all summonses, warrants, precepts, and writs of execution, and shall register all orders and judgments, and shall keep a record of all proceedings of the Court, and shall have the custody and keep an account of all fees and fines payable or paid into Court, and of all moneys paid into or out of Court, and shall enter an account of all such fees, fines, and moneys as and when received, in a book belonging to the Court, to be kept by him for that purpose, and shall from time to time, at such times as shall be required by the regulations of the Treasury Department, or as may be directed by the Court, submit his accounts to be audited and settled by the auditor, and shall pay into the Treasury the amount of fines and fees in his custody, and, subject to such regulations or directions, such audit and payments shall take place at least once in every month.

Taxing Master.

171. Subject to such rules or orders as aforesaid, every registrar shall be taxing master for the Court or Courts to which he belongs, and shall tax all bills of costs in accordance with the scale of fees

for the time being in force, subject to review of such taxation by the Court. Provided that the Court may direct in any case that taxation of costs shall take place before the Court itself in the first instance.

Duties of Sheriff.

172. The duty of the sheriff is by himself or his officers to receive in the district in which he is sheriff, writs and processes of the Courts, and to execute the same and make returns thereto.

Provided that the sheriff shall not be liable to be sued for any act or omission of any messenger, bailiff, or other person in the execution of any process which shall have been done or may have occurred either through disobedience or neglect of the orders or instructions given by the sheriff, or which may have been done or occurred without his authority.

Bailiffs and Messengers.

173. The duty of every messenger or bailiff shall be to attend the Court and serve and execute any process issued out of the Court, whether delivered to him by the Court direct or by the sheriff, and to obey all directions of the presiding judge for preserving order and decorum in the Court.

Neglect of Duty by Officer.

174. If an officer of the Court employed to execute an order wilfully or by neglect or omission loses the opportunity of executing it, then, on complaint of the person aggrieved and proof of the fact alleged, the Court may, if it thinks fit, order the officer to pay the damages sustained by the person complaining, or part thereof, and the order shall be enforced as an order directing payment of money.

Misconduct of Officer.

175. If any officer of the Court is charged with extortion under pretence of the process or authority of the Court or with not duly paying over money levied or with any other misconduct the Court, if it thinks fit, may (without prejudice to any other liability or punishment to which the officer would, in the absence of the present provision, be liable) enquire into the charge in a summary manner, and may for that purpose summon and enforce the attendance of all necessary persons as in an action, and may make such order for the repayment of any money extorted or for the payment over of any money levied, and for the payment of such damages and costs as the Court thinks just, and the Court may also, if it thinks fit, impose on the officer such fine not exceeding 20*l.* for each offence, as the Court thinks just.

Chapter XXVII.—Advocates.

Admission of Qualified Persons.

176. The chief justice shall have power to approve, admit, and enrol to practise as advocates in all or any of the Courts hereby

established, such persons as shall have been admitted barristers or advocates in Great Britain or Ireland, and as shall have been admitted as solicitors or writers to the Signet in any of the Courts at Westminster, Dublin, or Edinburgh, or as shall have been duly authorised to exercise any profession of a similar nature in the Ottoman Courts or the Courts of any foreign country. Provided always that the chief justice may refuse to admit any person to practise as an advocate, notwithstanding he may have the qualification aforesaid.

Proof of Qualification.

177. Every person who shall desire to be admitted under the last preceding clause shall deposit in the office of the Registrar of the Supreme Court for custody therein his certificate of call to the Bar, or of his admission as a solicitor or other diploma or certificate, and shall file in the Court an affidavit of identity in such form as may be approved by the chief justice, and shall furnish such evidence of his character and past occupation as the chief justice may require. Provided always that the chief justice may, on special grounds and upon such terms as he may think reasonable, exempt any such person from complying with the formalities prescribed by this section either absolutely or for any specified period.

Admission of Clerks and Persons who have held Judicial Office.

178. The chief justice shall have power to admit to practise as an advocate as aforesaid any person who shall have served five years continuously in the office of an advocate practising under the authority of this order, or who shall, prior to this order coming into operation, have held office as a judge or clerk in any Court in Cyprus, and who shall have passed such examination touching the principles and practice of the law before such persons as the chief justice may from time to time appoint. Every such person shall, before admission, take and subscribe the oath or declaration and affirmation of allegiance in the form prescribed by the law of England, and also the oath or affirmation of fidelity in his office in the following form :—

“ I, A.B., do swear [or solemnly declare] that I will truly and honestly demean myself in the employment of an Advocate according to the best of my knowledge and ability. So help me God.” *

Temporary Admission of Unqualified Persons.

179. In case there shall not be a sufficient number of persons in Cyprus qualified in the manner hereinbefore described to practise as advocates, it shall be lawful for the chief justice to admit temporarily so many other fit and proper persons to appear and act in the capacity of advocates, before all or any of the Courts hereby

* *Note.*—The words “ So help me God ” to be omitted in case of a solemn declaration.

established, as may appear to him necessary, subject to such conditions and regulations as may be prescribed by rules of Court.

Enrolment.

180. Every person admitted to practise as an advocate in the Courts of Cyprus shall cause his name to be enrolled in a book to be kept for the purpose in the office of the Registrar of the Supreme Court, and no person whose name shall not be enrolled as aforesaid shall be entitled to practise; but any party to an action may appear in person and conduct his own case, and where there are several parties to any action having common interests, any one of such parties may be authorised by the other or others of them to appear on his or their behalf and conduct the case for him or them, and where the Court shall think proper, it may allow any person being the husband, wife, father, mother, brother, or sister, or other near relation of any party to an action on the request of such party to appear as his advocate and conduct his case.

Advocates Enrolled may sue for Fees.

181. Every person whose name is entered on the roll of Advocates shall be entitled to sue for and recover his taxed costs, subject to any rules of Court regulating the same.

Advocates Enrolled to be Officers of Court.

182. Every person whose name shall be so enrolled as aforesaid shall be deemed to be an officer of the Supreme Court.

Suspension of Advocate.

183. The Supreme Court shall have power for reasonable cause to suspend any person enrolled from practising in Cyprus during any specified period, or to order his name to be struck off the rolls of the Court; and any District Court or Assize Court shall have power to suspend any such person in like manner temporarily pending a reference to and the confirmation or disallowance of such suspension by the Supreme Court.

Chapter XXVIII.—Witnesses and Evidence.

Court may summon Witnesses.

184. In any proceeding before any Court in Cyprus, and at any stage thereof, the Court, either of its own motion or on the application of any party, may summon any person within its jurisdiction to attend to give evidence or to produce any document in his possession, and may examine such person as a witness or expert, and require him to produce any document in his possession or power, subject to all just exceptions.

Witness failing to Attend.

185. If the person summoned, having reasonable notice of the time and place at which he is required to attend, fails to attend

accordingly, and does not excuse his failure to the satisfaction of the Court, he may, independently of any other liability, be proceeded against by warrant to compel his attendance, and may be ordered to pay all costs which may have been occasioned in compelling his attendance, or by reason of his refusal to obey the summons, and shall be liable also to a fine which may extend to 10*l.*, or to imprisonment which may extend to one week.

Witness to be Sworn or make Declaration.

186. Any person called upon to give evidence in any Court shall, before being examined, be required to take such oath as is customarily administered to persons of his creed or faith, on testifying upon oath before a Court of Justice. Such oath may be administered by any judge, registrar, or clerk of the Court, or by any person requested by the president of the Court to administer such oath.

If any witness shall object to take an oath or shall be objected to as incompetent to take an oath, or if the Court shall be of opinion that the taking of an oath will have no binding effect on his conscience, he shall be required to make the following promise and declaration :—

“ I solemnly promise and declare that the evidence given by me to the Court shall be the truth, the whole truth, and nothing but the truth.”

Witness refusing to be Examined.

187. If any person, whether appearing in obedience to a summons or brought up under a warrant, being required to give evidence refuses to take an oath or make a promise and declaration in lieu thereof, or refuses to answer any question lawfully put to him, or to produce any document in his possession, and does not excuse his refusal to the satisfaction of the Court, he shall, independently of any other liability, be liable to be committed to prison under the warrant of the Court, there to remain for not more than one month, unless he in the meantime consents to answer duly, and he shall also be liable to a fine which may extend to 20*l.*

Court may call on Persons in Court to give Evidence.

188. Any person present in the Court, whether a party or not in a cause, may be compelled by the Court to give evidence and produce any document in his possession or in his power in the same manner and subject to the same rules as if he had been summoned to attend and give evidence, or to produce such document, and may be punished for any refusal to obey the order of the Court as if he had been so summoned.

Limitation of Provisions of Clauses 185, 187, 188.

189. The provisions of Clauses 185, 187, and 188 respectively shall not apply to proceedings before a village judge or a Magisterial

Court. Provided that if any witness without reasonable excuse fails to appear in obedience to the summons of a village judge or Magisterial Court, or on appearance refuses to be examined or to give evidence or to produce any document in his possession, the District Court may, on complaint of the village judge or Magisterial Court, summon the offender before it, and on proof of his so failing or refusing as aforesaid may impose such punishment as if the offence had been committed in the course of proceedings before the District Court. But this proviso shall not affect the powers of a Magisterial Court under Clause 97 of this Order.

Summoning Prisoner as Witness.

190. It shall be lawful for any judge of the Supreme Court or president of a District Court to issue a warrant under his hand for bringing up any person confined as a prisoner under any sentence or order of commitment for trial or otherwise, or under civil process, to be examined as a witness in any cause or matter depending, or to be enquired of in any Court; provided that such warrants shall not be granted as of course, nor unless the judge shall have probable ground for believing that the evidence of the prisoner is likely to prove material. The gaoler or person in whose custody such prisoner may be shall forthwith obey such warrant by bringing the prisoner to the Court in his custody, or by delivering him to an officer of Court as the warrant may order; and if the prisoner shall under the terms of the warrant be delivered to any officer of the Court, the gaoler shall not be liable for the escape of such prisoner.

Witness to attend though Expenses not paid.

191. It shall not be lawful in any proceeding, civil or criminal, for any person to refuse to attend as a witness, or to give evidence when so required by process of the Court, on the ground that his expenses have not been paid or provided for.

When Witness may Testify without Oath or Declaration.

192. On any occasion the Court may, if it thinks it just and expedient (for reasons to be recorded in the minutes of the proceedings), take without oath or promise and declaration in lieu thereof, the evidence of any person who, by reason of immature age, ought not in the opinion of the Court to be admitted to give evidence upon oath, the fact of the evidence having been so taken without oath being also recorded in the minutes of the proceedings.

Punishment for False Evidence.

193. Whoever shall in any judicial proceeding whatsoever give false evidence, whether on oath or otherwise, or shall make any false affirmation, promise, or declaration without oath, shall be guilty of an offence, and, on conviction, shall be liable to be imprisoned for any term not exceeding seven years.

Inspection of Property.

194. In any cause or matter it shall be lawful for the Court, on the application of either party, or on its own motion, to make such order for the inspection by the Court, the parties or witnesses of any moveable or immoveable property, the inspection of which may be material to the proper determination of the question in dispute, and to give such directions respecting such inspection as to the Court may seem fit.

Who are Competent Witnesses.

195. All persons are competent to give evidence in all cases, and no person shall be considered incompetent to give evidence in any case by reason of his being the plaintiff or prosecutor, or by reason of his being master or servant, husband, wife, or relative of the plaintiff or prosecutor, or of the defendant or accused, or by reason of his having been convicted of or being under sentence for any crime. But the Court may refuse to accept the evidence of any person who, in the opinion of the Court, is prevented by extreme youth, disease affecting his mind, or any other cause of the same kind, from recollecting the matter on which he is to give evidence, from understanding the questions put to him, from giving rational answers to these questions, or from knowing that he ought to speak the truth ; and the Court shall give such weight to the evidence of every witness as in the opinion of the Court the demeanour and circumstances and previous character of the witness entitle it to ; provided that in all criminal cases, except as hereinafter mentioned, a wife shall not be competent to give evidence against her husband, nor compellable to give evidence against any person accused jointly with him, nor shall a husband be competent to give evidence against his wife, nor compellable to give evidence against any person accused jointly with her.

In criminal proceedings against a husband or wife for any bodily injury or violence inflicted upon his or her wife or husband, and in proceedings in respect of adultery, a wife is competent and compellable to give evidence against her husband, and a husband against his wife.

Evidence of Single Witness.

196. No Court shall give judgment or convict in any case on the evidence of a single witness, which in a civil case is contradicted, or in a criminal case is contradicted or not admitted by the opposite party to the proceeding in which such evidence given, except where such evidence is corroborated by some other material evidence, which in the opinion of the Court is sufficient to establish the accuracy of the evidence of the witness.

Chapter XXIX.—Transfer.

Power to Transfer.

197. Any action may at any time and at any stage thereof, and either with or without application from any of the parties thereto, be transferred by the Chief Justice from any Court to

any other Court of competent jurisdiction ; and such action may be transferred either entirely or in respect of any portion thereof or procedure required to be taken therein.

Power, How to be Exercised.

198. The power of transfer shall be exercised by means of an order under the hand of the Chief Justice and the seal of the Supreme Court, and the Chief Justice may at any time revoke, add to, or amend any such order.

Court may Apply for Transfer.

199. Any Court may of its own motion, or, on the application of any person concerned, report to the Chief Justice the pendency of any proceeding, civil or criminal, which in the opinion of such Court ought for any reason to be transferred from such Court to any other Court, and the Chief Justice shall thereupon direct in what Court such proceeding shall be heard and determined.

Effect of Order of Transfer.

200. Every order of transfer shall operate as a stay of proceedings in the Court or before the judge to whom it may be addressed in any action or case to which the order extends or is applicable, and the process and proceedings in every such action or case, and an attested copy of all entries in the books of the Court relative thereto, shall be transmitted to the Court or judge to whom the same shall be transferred, and such action or case shall be heard and determined by or before the Court or judge to whom the same shall be assigned by such order.

Chapter XXX.—Sittings.

Sittings to be Public.

201. The sittings of every Court for the hearing of all proceedings, whether civil or criminal, shall ordinarily be public, but the Court may, for a reason to be specified by it on the minutes, hear any particular proceeding in the presence only of the parties with their advocates or other representatives, if any, and the officers of the Court.

Place of Sitting of Supreme Court.

202. The sittings of the Supreme Court shall usually be held at Nicosia, in such building as the High Commissioner shall from time to time assign as a Court House for that purpose, but may, if it shall seem expedient to the Court, be held in any other place in Cyprus.

Place of Sitting of District and Assize Courts.

203. The sittings of each District Court and of the president thereof sitting alone in foreign actions, and of the Assize Court

for each district, shall usually be held in such building within the chief town of the district assigned to such Courts respectively as the High Commissioner shall from time to time assign for that purpose, but may, if it shall seem expedient to the president, or if it shall be so directed by the Chief Justice, be held in any other place within such district.

Place of Sitting of Magisterial Court.

204. The sittings of a Magisterial Court shall usually be held in such places within the district in which it had jurisdiction as shall be appointed for that purpose by the High Commissioner, but may as occasion shall require be held in any place within that district.

Place of Sitting of Village Judge.

205. Every village judge may hold his sittings at any convenient place in his judicial division, and the President of a District Court acting as a village judge may hold his sittings at any place within the district assigned to his Court.

Periods of Sittings.

206. Subject to any Rules of Court to be made under the authority of this Order or otherwise every District Court and the Supreme Court shall be open throughout the year for the transaction of the general legal business pending therein other than the trial upon information of criminal proceedings, and may at any time hear and determine any charge or matter pending in such Court other than the proceedings last aforesaid upon such notice to the parties and otherwise as the procedure of the Court shall require, and subject as aforesaid, every village judge shall receive and hear complaints throughout the year. The Assize Court for each district shall hold at least one sitting in every six months, and each District Court shall hold at least one sitting in every three months for the trial upon information of criminal proceedings.

Quorum of District Court.

207. Every action or other proceeding by this Order directed to be tried before a District Court shall, whenever practicable, be heard by the full Court, but the president and one of the ordinary judges shall form a quorum, having all the powers of a full Court. Provided that any order in any Ottoman civil action not disposing of the action on its merits may be made by the president or one ordinary judge of a District Court sitting alone, subject to appeal to the Court.

In Supreme Court both Judges to Sit.

208. Every appeal or other proceeding by this Order directed to be heard before the Supreme Court shall be heard by all the judges of such Court. Provided that any order in any civil action not disposing of the case on its merits, may be made by any judge of the Court sitting alone, and every order so made shall be subject to reconsideration by the full Court.

Chapter XXXI.—Powers to be exercised by High Commissioner.

Power to make Rules of Court.

209. The High Commissioner, with the advice and assistance of the Chief Justice, may from time to time by writing under the hand and official seal of the High Commissioner and the hand of the Chief Justice make rules in this Order referred to as Rules of Court for the better execution of the provisions of this Order, and in particular :—

- (a.) For regulating the sittings of the Supreme Court, of the District Courts, of the Assize Courts, and of the village judges.
- (b.) For regulating the pleading, practice, and procedure of any of the said Courts or judges, and for prescribing the forms to be used in connection therewith.
- (c.) For regulating the qualification, admission, and enrolment of advocates, and of persons acting temporarily as advocates, and for regulating their duties and fees, and the fees to be paid by them on enrolment.
- (d.) Generally for regulating any matters relating to the practice and procedure of the said Courts and judges respectively ; or to the duties of the officers of such Courts, or to the costs of proceedings therein to be allowed to parties to actions or other proceedings or to be allowed to the advocates and others lawfully representing any party to an action or other proceeding.

Power to prescribe Fees of Court.

210. The High Commissioner shall from time to time, with the advice and assistance of the Chief Justice, by order in writing under the hand and official seal of the High Commissioner and the hand of the Chief Justice, prescribe the fees to be taken under this Order by any Court or any village judge, or by any officer of a Court or by any person authorised or appointed to act in respect of any proceedings in any Court or otherwise, and subject to the provisions of any order made in pursuance of this clause, the fees now chargeable in the Queen's High Court of Justice and in the Nizam Courts respectively shall, where applicable, be taken in the corresponding Courts hereby established and applied, and accounted for in the existing manner.

Rules of Court and Fees to be Published.

211. Every rule made, and every list of fees prescribed under the provisions of this Order, shall be published in the Cyprus Official Gazette and reported to the Secretary of State. Every such rule made and list of fees prescribed shall, when published in the Cyprus Official Gazette, have the same force and effect for all purposes as if it had been incorporated in this Order, and

shall come into operation either immediately or on such day as shall be provided by such rule or order prescribing fees subject to disallowance by Her Majesty.

Chapter XXXII.—Miscellaneous Provisions.

Obstruction of or Disturbance in Court.

212. If any person wilfully obstructs by act or threat an officer of any Court in the performance of his duty ; or

Within or close to the room or place where the Court is sitting, wilfully misbehaves in a violent, threatening, or disrespectful manner, to the disturbance of the Court, or to the intimidation of suitors or others resorting thereto ; or

Wilfully insults any member of the Court, or any assessor, or any officer of the Court, during his sitting or attendance in Court, or in his going to or returning from Court ;

The person so acting shall be liable to be immediately apprehended by order of the Court, and to be detained until the rising of the Court, and on enquiry and consideration then and there, and without further trial, to be punished with a money penalty of not more than 40s., or with imprisonment for not more than one week, in the discretion of the Court.

A minute shall be made and kept of every such case of punishment, recording the facts of the offence, and the extent of the punishment ; and if the punishment is inflicted by a District Court a copy of the minute shall be forthwith sent to the Chief Justice.

A person punished for an offence under this section shall not be liable to a prosecution or action in respect of the same matter ; and any such prosecution or action, if begun, shall be stayed by the District Court in such manner and on such terms as the District Court thinks just.

Prejudicing Proceedings of Court.

213. If while any proceedings, civil or criminal, are pending in any Court, any person shall publish any writing or do any act in reference to such proceedings calculated to prejudice the fair trial of such proceedings or to interrupt or delay the course of justice or to bring into contempt the Court before which such proceedings are pending, the Supreme Court may, upon the application of any party to such proceedings or of its own motion proceed against such person by way of attachment, in manner hereinbefore provided in case of disobedience to a decree, order, or injunction. Provided that no writ of attachment shall issue in the first instance under the provisions of this clause.

Compelling Payment of Fees and other Moneys.

214. Every Court shall for the purpose of compelling payment of any costs and any charges and expenses of witnesses in any civil or criminal proceedings, and of any costs, charges, and expenses of any prosecution or punishment, and of any other charges

and expenses and of any fees, forfeitures, and money penalties, have power to issue the same process as may be issued to compel payment of a judgment debt.

Disposal of Fees and other Moneys.

215. All fees, forfeitures, and money penalties levied under this Order shall be carried to the public account unless where it is otherwise specially provided by the Order under which any fees are chargeable, or by any law under which any such forfeiture or money penalty is established or provided.

Time for Commencement of Order.

216. This Order shall come into effect on and from a day to be appointed in that behalf by the High Commissioner, which shall be notified by proclamation, to be published in the Cyprus Official Gazette.*

C. L. Peel.

THE CYPRUS COURTS OF JUSTICE ORDER, 1883.

At the Court at Windsor, the 14th day of February, 1883.

PRESENT :

The Queen's Most Excellent Majesty.

Lord Privy Seal.

Lord Steward.

Earl Granville.

Whereas it is expedient to make further provision for the administration of justice in Cyprus.

Now, therefore, Her Majesty, by virtue of the powers in this behalf by the Foreign Jurisdiction Acts, 1843 to 1878,† or otherwise vested in Her, is pleased, by and with the advice of Her Privy Council to order, and it is hereby ordered, as follows—

1. This Order may be cited as The Cyprus Courts of Justice Order, 1883.

2. From the time at which the Cyprus Courts of Justice Order, 1882,‡ shall come into effect all the jurisdiction which now belongs to the Queen's High Court of Justice for Cyprus (hereinafter called the High Court) as a Court of Bankruptcy, or as a Court of Matrimonial Causes, or as a Court of Probate, or in relation to the custody and management of the persons and estates of persons of

* The High Commissioner by Proclamation, dated February 7, 1883, published in the Cyprus Gazette, February 8, 1883, appointed March 1, 1883, for this Order to come into force.

† 6 & 7 Vict. c. 94 ; 29 & 30 Vict. c. 87 ; 38 & 39 Vict. c. 85 ; 41 & 42 Vict. c. 67, now repealed and consolidated by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

‡ Printed at p. 341 above.

unsound mind ; and all powers and authorities now vested in the High Court incident to the exercise of any such respective jurisdiction, and all jurisdiction, powers, and authorities now belonging to, vested in, or exerciseable by the High Court or the Judicial Commissioner, for the exercise of which no special provision is made by the Cyprus Courts of Justice Order, 1882,* or by this Order, shall belong to and be vested in and exerciseable by the Supreme Court of Cyprus, and by no other Court.

3. The jurisdiction, powers, and authorities hereby vested in the Supreme Court may be exercised by the full Court, or by any judge of the Court sitting alone, but any order made in the exercise of any such jurisdiction, power, or authority by any judge sitting alone shall be subject to reconsideration by the full Court.

4. From the time at which the Cyprus Courts of Justice Order, 1882,* comes into effect every act or thing which is required or authorised by any Order in Council or Ordinance to be done with the advice and consent of the Judicial Commissioner shall or may be done with the advice and consent of the Chief Justice of the Supreme Court, and all rules or regulations which by any such Order or Ordinance the Judicial Commissioner is required or empowered to make or frame shall or may be made or framed by the Chief Justice of the Supreme Court.

5. Nothing herein or in the Cyprus Courts of Justice Order, 1882, contained shall be taken to revive or keep in force the 75th section of the Cyprus High Court of Justice Ordinance, 1879.

C. L. Peel.

ORDER IN COUNCIL AS TO THE REMOVAL OF PRISONERS FROM
CYPRUS TO MALTA.

At the Court at Osborne House, Isle of Wight, the 31st day of
December, 1883.

PRESENT :

The Queen's Most Excellent Majesty in Council.

Whereas Her Majesty the Queen has power and jurisdiction within Cyprus :

Now, therefore, Her Majesty, by virtue and in exercise of the powers in this behalf by the Foreign Jurisdiction Acts† or otherwise in Her vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

* Printed at p. 341 above.

† 6 & 7 Vict. c. 94 ; now repealed and consolidated into other Acts by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

Where an offender convicted before any Court in Cyprus is sentenced to imprisonment, whether in the form of penal servitude or in any other form, and it appears to Her Majesty's High Commissioner and Commander-in-Chief of Cyprus expedient that the sentence should be carried into effect within Her Majesty's dominions, the High Commissioner may, by warrant under his hand and seal, cause such offender to be sent to Malta, in order that the sentence may be there carried into effect.

Such warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person therein named and to deliver him to the person or persons in Malta to whom it may appertain to give effect to such sentence.

And the Right Honourable the Earl of Derby, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein.

C. L. Peel.

ORDER IN COUNCIL APPLYING THE COLONIAL PRISONERS REMOVAL ACT, 1884, TO CYPRUS.

At the Court at Balmoral, the 17th day of October, 1884.

PRESENT :

The Queen's Most Excellent Majesty.

Earl Spencer.

Lord Young.

The Lord Advocate.

Whereas Her Majesty the Queen has power and jurisdiction within Cyprus :

Now, therefore, Her Majesty, by virtue and in exercise of the powers in this behalf by the Colonial Prisoners Removal Act, 1884,* or otherwise in Her vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

1. That the aforesaid Colonial Prisoners Removal Act, 1884,* shall apply to, and take effect within, the Island of Cyprus, as if that place were a British possession and part of Her Majesty's dominions.

2. In order to carry out the application of the said Act to the Island of Cyprus, the High Commissioner, or any person or persons lawfully discharging the functions of High Commissioner may exercise all powers vested by the said Act in the Governor of a British possession.

C. L. Peel.

* 47 & 48 Vict. c. 31.

ORDER IN COUNCIL MAKING AN ADDITIONAL PERMANENT CHARGE
ON THE CONSOLIDATED REVENUE OF CYPRUS.

At the Court at Osborne House, Isle of Wight, the 3rd day of
August, 1886.

PRESENT :

The Queen's Most Excellent Majesty.

His Royal Highness the Prince of Wales.

His Royal Highness the Duke of Connaught and Strathearn.

Lord Chancellor.

Lord President.

Earl of Rosebery.

Earl of Kimberley.

Mr. Secretary Childers.

Mr. Secretary Campbell-Bannerman.

Mr. Chancellor of the Exchequer.

Sir Ughtred Kay-Shuttleworth, Bart.

Whereas by the twenty-seventh clause of an Order made by Her Majesty in Council, bearing date at Windsor, the thirtieth day of November, eighteen hundred and eighty-two,* it was provided that there should be permanently charged on the consolidated revenue of the Island of Cyprus, and that there should be payable to Her Majesty the Queen, Her heirs and successors, every year until it should be otherwise ordered by Her Majesty, Her heirs and successors, with the advice of Her or their Privy Council, the sum of 92,686*l.*, being a sum equal to the sums then payable under the Annex, dated the 1st of July, 1878,† to the Convention of Defensive Alliance between Great Britain and Turkey, signed on the 4th day of June, 1878,‡ and under an agreement respecting Cyprus lands, signed by the Representatives of Great Britain and Turkey, on the 3rd day of February, 1879 § :

And whereas on the 4th day of September, 1884, the Cyprus Government took over the direct control of the Lighthouses of Cyprus, and thereupon in addition to the said sums amounting to the sum of 92,686*l.*, the further annual sum of 113*l.* 11*s.* 3*d.* became payable under the said Annex to the said Convention of Defensive Alliance :

And whereas it is expedient that the said further sum of 113*l.* 11*s.* 3*d.* should be secured upon the Revenues of Cyprus in the same manner as the said sum of 92,686*l.*

Now, therefore, Her Majesty, by virtue of the powers in this behalf in Her vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

* Printed at p. 339 above.

† Printed in "Hertslet's Treaties," Vol. xiv. p. 1171.

‡ Published in Parliamentary Paper, 1878 [C. 2057], LXXXII. 1.

§ Printed in "Hertslet's Treaties," Vol. xiv. p. 1178.

1. Instead of the sum of 92,686*l.*, specified in the 27th clause of the said Order in Council of the 30th day of November, 1882,* the sum of 92,799*l.* 11*s.* 3*d.* shall, as from the 4th day of September, 1884, be deemed to have been and shall be permanently charged upon the Consolidated Revenue of Cyprus and payable to Her Majesty, Her heirs and successors, in every year until it shall be otherwise ordered by Her Majesty, Her heirs and successors, with the advice of Her or their Privy Council.

C. L. Peel.

ORDER IN COUNCIL EXTENDING THE EVIDENCE BY COMMISSION ACT, 1859,† AND THE EVIDENCE BY COMMISSION ACT, 1885,‡ TO CYPRUS.

At the Court at Osborne House, Isle of Wight, the 3rd day of August, 1886.

PRESENT :

The Queen's Most Excellent Majesty in Council.

Whereas it is expedient that the Evidence by Commission Act, 1859,† and the Evidence by Commission Act, 1885,‡ should be extended to Cyprus :

Now, therefore, Her Majesty, in exercise of the powers in this behalf vested in Her by the Foreign Jurisdiction Act, 1878,§ or otherwise, doth hereby, by and with the advice of Her Privy Council, order and direct, and it is hereby ordered, as follows :—

1. The Evidence by Commission Act, 1859,† and the Evidence by Commission Act, 1885,‡ shall extend to Cyprus from and after the date of this Order.

2. One of Her Majesty's Principal Secretaries of State is to give the necessary directions herein.

C. L. Peel.

ORDER IN COUNCIL, APPLYING THE COLONIAL COURTS OF ADMIRALTY ACT, 1890,|| WITH CERTAIN EXCEPTIONS AND QUALIFICATIONS TO THE SUPREME COURT OF CYPRUS, AND MAKING RULES REGULATING THE PROCEDURE OF THAT COURT IN ITS ADMIRALTY JURISDICTION.

At the Court at Windsor, the 23rd day of November, 1893.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President,

Lord Steward,

Lord Kensington.

Whereas by the 12th section of the Colonial Courts of Admiralty Act, 1890,|| it is enacted as follows :—

* Printed at p. 333 above. † 22 Vict. c. 20. ‡ 48 & 49 Vict. c. 74.
§ 41 & 42 Vict. c. 67; now repealed and consolidated with other Acts by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).
|| 53 & 54 Vict. c. 27.

"It shall be lawful for Her Majesty the Queen in Council by Order to direct that this Act shall, subject to the conditions, exceptions, and qualifications (if any) contained in the Order, apply to any Court established by Her Majesty for the exercise of Jurisdiction in any place out of Her Majesty's Dominions which is named in the Order as if that Court were a Colonial Court of Admiralty, and to provide for carrying into effect such application."

And whereas on the 30th day of November, 1882, Her Majesty in Council was pleased by the Cyprus Courts of Justice Order, 1882,* to establish for the exercise of jurisdiction in Cyprus a Court called the Supreme Court and certain other Courts called District Courts.

And whereas it is expedient that the said Supreme Court should possess Admiralty jurisdiction, and that the above recited Act should be applied to the said Court as if that Court were a Colonial Court of Admiralty.

Now, therefore, Her Majesty, by virtue of the powers in this behalf by the Colonial Courts of Admiralty Act, 1890,† and by the Foreign Jurisdiction Act, 1890,‡ or otherwise vested in Her, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

1. This Order may be cited as the Cyprus Admiralty Jurisdiction Order, 1893.

2. The Colonial Courts of Admiralty Act, 1890,† subject to the conditions, exceptions, and qualifications herein contained, shall apply to the Supreme Court of Cyprus as if that Court were a Colonial Court of Admiralty, and the said Court shall have and may exercise all the jurisdiction conferred by the said Act upon a Colonial Court of Admiralty.

3. The said Act shall apply to the Supreme Court of Cyprus, subject to the conditions, exceptions, and qualifications following, that is to say :—

A law passed by the Legislature of Cyprus shall be deemed to be a Colonial Law for the purposes of this Order and of the fourth section of the Act.

4. Any Admiralty jurisdiction heretofore exerciseable by the District Courts established by the Cyprus Courts of Justice Order, 1882, other than the jurisdiction in salvage cases conferred upon the said Courts or the Presidents thereof by "the Cyprus Wrecks Law, 1886," shall cease on the day when this Order takes effect; but all proceedings pending in any District Court on that day may be continued in such Court as if this Order had not been passed.

5. The High Commissioner of Cyprus may from time to time appoint a marshal and such number of deputy marshals as he may deem necessary of the Supreme Court of Cyprus for the

* Printed at p. 341 above. † 53 & 54 Vict. c. 27. ‡ 53 & 54 Vict. c. 37.

purpose of executing the process judgments and orders of the said Court in its Admiralty jurisdiction.

6. The High Commissioner shall publish this Order by proclamation at such time as he thinks fit, and shall in such proclamation name a day on which this Order shall take effect, and this Order shall take effect accordingly.

7. The Rules contained in the Schedule hereto shall, until revoked or varied, be the Rules of Court of the Supreme Court of Cyprus in its Admiralty jurisdiction, and shall have effect as if they had been made by the proper authority and approved by Her Majesty in Council under the seventh section of the said Act, and may be revoked, varied, or added to in the same manner as if they had been made and approved under the said section:

C. L. Peel.

Schedule.

Rules of the Supreme Court of Cyprus in its Admiralty Jurisdiction.

[These Rules are not printed in this volume on account of their local character.]

THE CYPRUS EXTRADITION ORDER IN COUNCIL, 1895.*

1895. No. 136.

At the Court at Windsor, the 8th day of March, 1895.

PRESENT :

The Queen's Most Excellent Majesty.

Lord Privy Seal.
Lord Steward.

| Earl of Kimberley.
| Lord Kensington.

Whereas by treaty, grant, usage, sufferance, and other lawful means, Her Majesty the Queen has power and jurisdiction in and over Cyprus :

And whereas Her Majesty on the 15th day of July, 1881, made an Order in Council entitled the Cyprus Extradition Order in Council, 1881, and it is expedient to amend the same :

Now, therefore, Her Majesty, by virtue of the powers in this behalf by the Foreign Jurisdiction Act, 1890,† or otherwise, in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

1. This Order may be cited as "The Cyprus Extradition Order in Council, 1895," and shall be construed as one with the Cyprus Extradition Order in Council, 1881.‡

* And see The Cyprus Extradition Order in Council, 1895, No. 2, printed below.

† 53 & 54 Vict. c. 37.

‡ Printed at p. 322 above.

2. Section 40 of the Cyprus Extradition Order in Council, 1881,* is hereby repealed.

3. In case of the extradition of any person to Cyprus by the government of a foreign country or by the Ottoman Government he shall not be triable or punishable in Cyprus for an offence of a political character.

4. In the case of the extradition of any person to Cyprus by the government of a foreign country he shall not be triable in Cyprus for any offence committed within British jurisdiction before his extradition, other than a scheduled offence proveable by the facts on which the extradition is grounded, unless and until he has been restored to the country by whose government he was given up, or has had, in the judgment of the High Commissioner, reasonable opportunity of returning thereto.

And the Most Honourable the Marquess of Ripon, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

THE CYPRUS EXTRADITION ORDER IN COUNCIL, 1895, No. 2.

1895. No. 582.

At the Court at Windsor, the 12th day of December, 1895.

PRESENT :

The Queen's Most Excellent Majesty

Lord President.

Duke of Norfolk.

Lord George Hamilton.

Mr. Ritchie.

Whereas by treaty, grant, usage, sufferance, and other lawful means, Her Majesty the Queen has power and jurisdiction in and over Cyprus :

And whereas Her Majesty, on the 15th day of July, 1881, made an Order in Council, entitled the Cyprus Extradition Order in Council, 1881,* and on the 8th day of March, 1895, a further Order in Council to amend the same, entitled the Cyprus Extradition Order in Council, 1895 :†

And whereas it is expedient to define certain expressions contained in the said Orders in Council :

Now, therefore, Her Majesty, by virtue of the powers in this behalf by the Foreign Jurisdiction Act, 1890,‡ or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council to order and declare, and it is hereby ordered and declared, as follows :—

1. This Order may be cited as the Cyprus Extradition Order in Council, 1895, No. 2, and shall be construed as one with the Cyprus Extradition Order in Council, 1881,* and the Cyprus Extradition Order in Council, 1895.†

* Printed at p. 322 above.

† 53 & 54 Viet. c. 37.

‡ Printed at p. 418 above.

2. In the Cyprus Extradition Orders in Council, 1881 * and 1895,† the expression "the Ottoman Government" shall be taken to include the Government of any autonomous or semi-autonomous State within the dominion of the Sultan of Turkey.

3. In the Cyprus Extradition Order in Council, 1881,* the expressions "Ottoman depositions or statements," "Ottoman warrants or other judicial instruments authorising apprehension," and "Ottoman certificates or judicial instruments stating a conviction," shall be taken to include depositions or statements taken or made, and warrants, certificates, or judicial instruments issued in any part of the Ottoman dominions.

And the Right Honourable Joseph Chamberlain, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. I. Peel.

THE CYPRUS COURTS OF JUSTICE AMENDMENT ORDER, 1902.

1902. No. 660.

At the Court at Buckingham Palace, the 11th day
of August, 1902.

PRESENT :

The King's Most Excellent Majesty.

His Royal Highness the Prince of Wales.

Lord President.
Lord Steward.
Earl of Leven and Melville.
Earl of Dudley.
Lord Suffield.
Lord Rothschild.
Lord James of Hereford.
Lord Kelvin.
Lord Lister.
Lord Privy Seal.
Mr. Secretary Akers-Douglas.
The Hon. Sir Michael Herbert.
Mr. Ritchie.
Sir William Walrond.

Mr. George Wyndham.
Sir Dighton Probyn.
Sir Edward Grey.
Sir John Dorington.
Sir Hugh Macdonell.
Sir Antony Macdonnell.
Sir Alfred Lyall.
Sir Albert Hime.
Sir Robert Bond.
Sir Ernest Cassel.
Mr. R. B. Haldane.
Mr. A. F. Jeffreys.
Mr. J. Round.
Mr. J. Austen Chamberlain.

Whereas by treaty, grant, usage, sufferance, and other lawful means, His Majesty the King has power and jurisdiction in and over Cyprus :

And whereas Her late Majesty Queen Victoria, on the thirtieth day of November, one thousand eight hundred and eighty-two, made an Order in Council entitled "The Cyprus Courts of Justice Orders, 1882,"‡ and it is expedient to amend the same :

* Printed at p. 322 above.

† Printed at p. 341 above.

‡ Printed at p. 418 above.

Now, therefore, His Majesty, by virtue of the powers in this behalf by “The Foreign Jurisdiction Act, 1890,” * or otherwise in His Majesty vested, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered as follows :—

Short Title.

1. This Order may be cited as “The Cyprus Courts of Justice Amendment Order, 1902,” and, where not inconsistent therewith, shall be read as one with “The Cyprus Courts of Justice Order, 1882.”

Definitions.

2. For the purposes of this Order, unless the context otherwise requires, the expression “Village Judge” means any Village Judge who is not also an Ordinary Judge of a District Court.

Power of the High Commissioner to direct Additional Courts to be held.

3.—(1.) Where it appears to the High Commissioner expedient for the better despatch of Judicial business so to do, he may direct that additional District Courts or Magisterial Courts or Village Judge Courts shall be held in any District or Judicial Division temporarily or for a specified time or at certain periods or whenever the state of business may require it, and such additional Courts and the Ordinary Courts of the District or Judicial Division may sit and exercise concurrent jurisdiction in the same District or Judicial Division at the same time.

(2.) Where it appears to the High Commissioner expedient for the better despatch of Judicial business so to do, he may direct that a Puisne Judge of the Supreme Court shall sit and act as President of any District Court or additional District Court to be held as aforesaid.

Extension of Jurisdiction of Judges.

4. Every Puisne Judge of the Supreme Court shall have, in any District in the Island in which he is directed by the High Commissioner to act, the jurisdiction of the President of the District Court of such District.

Every President of a District Court shall have, in any District in the Island in which he is directed as aforesaid to act, the jurisdiction of the President of the District Court of such District.

Every Ordinary Judge of a District Court shall have, in any District in the Island in which he is directed as aforesaid to act, the jurisdiction of an Ordinary Judge of such District.

Every Village Judge shall have, in any Judicial Division in which he is directed as aforesaid to act, the jurisdiction of the Village Judge of such Judicial Division.

* 53 & 54 Vict. c. 37.

Power of High Commissioner to appoint Additional Ordinary Judges.

5. Whenever it appears to the High Commissioner expedient to do so, the High Commissioner may appoint any Village Judge to act as an additional Ordinary Judge of such District Court temporarily or for a specified period or as occasion requires, and every additional Ordinary Judge appointed as aforesaid shall have in the District to which he is appointed the jurisdiction of an Ordinary Judge of a District Court.

Provided that where the additional District Judge is a Moslem, he shall not take part in the hearing or adjudication of any proceeding before an Assize Court, District Court or Magisterial Court together with the Moslem Ordinary Judge of the Court, and if he is a Christian he shall not take part in the hearing or adjudication of any such proceeding together with the Christian Ordinary Judge of the District Court.

Directions of the High Commissioner.

6. The directions of the High Commissioner under this Order may be signified by a Government Notice published in the Official Gazette; and it shall not be necessary in any proceedings to prove any such direction.

Regulation of Duties of Additional District Judges.

7.—(1.) Where additional District Courts or Magisterial Courts are sitting in any District, the Chief Justice may, from time to time, give such directions as to the division of the duties of the respective Judges of such Courts as may be necessary, and subject to such directions, the Registrar of the District Court shall set down cases for hearing before the ordinary or the additional Courts as the convenience of business may require. Provided that any person who is aggrieved by the action of the Registrar in setting down a case for hearing, may apply to the Chief Justice who shall give such order as the justice of the case may require.

(2.) The title of all proceedings, civil and criminal, set down for hearing before an additional Court shall be the same as if the same were to be heard before an ordinary Court.

Distribution of Duties between Additional and Ordinary Village Judges.

8. Where an additional Village Judge is sitting in any Judicial Division, cases shall ordinarily be heard by the Village Judge by whom the summons was issued, but nothing herein contained shall be taken to prevent a Village Judge from disposing of a case in which the summons was issued by another Village Judge.

Power of President of District Court to regulate duties of Village Judges.

9. When any question arises as to the distribution of the duties of different Village Judges having jurisdiction in the same Judicial Division, the same shall be settled, on the application of a Village Judge or of any interested party, by the President of the District

Court of the District in which the principal Village Judge Court of the Judicial Division in question is situated.

Appointment of Judge of Supreme Court for special purpose.

10. Whenever it is undesirable that any Judge of the Supreme Court should take part in the hearing of any appeal or other proceeding by reason of his having been a member of the Court the decision of which is appealed against or for any other cause, the High Commissioner may appoint, by commission under the Public Seal of the Island, another fit and proper person to be a Judge of the Supreme Court for the purpose of hearing such appeal or other proceeding, and every such person so appointed shall while so acting have all the powers of a Judge of the Supreme Court.

11, 12. [*These Articles specifically amended the Order of 1882 which is printed at pp. 341–412 as thus amended.*]

Jurisdiction of Ordinary Judges of District Courts sitting alone to hold preliminary enquiries into offences.

13. Notwithstanding anything contained in "The Cyprus Courts of Justice Order, 1882," every Ordinary Judge of a District Court sitting alone shall, for the purposes of holding preliminary enquiries into offences not triable summarily, have the same jurisdiction and may exercise the same powers as are conferred by the said Order for the said purpose upon Magisterial Courts consisting of the two Ordinary Judges of a District Court sitting together.

14. [*This Article specifically amended the Order of 1882 which is printed at pp. 341–412 as thus amended.*]

Jurisdiction of Judges of District Court under Tithe and Tax Collection Ordinance, 1882.

15. The powers exercisable by the Daavi Court under the provisions of the Tithe and Tax Collection Ordinance, 1882, may be exercised by the President or by any Ordinary Judge of a District Court sitting alone.

A. W. FitzRoy

5. India.

THE INDIAN (FOREIGN JURISDICTION) ORDER IN COUNCIL, 1902.
1902. No. 466.

At the Court at Buckingham Palace, the 11th day of June, 1902.

PRESENT :

The King's Most Excellent Majesty.

Lord President.
Earl of Kintore.

Lord Balfour of Burleigh.
Sir John Winfield Bonser.

Whereas by treaty, grant, usage, sufferance, and other lawful means, His Majesty the King has powers and jurisdiction, exercised

on His behalf by the Governor-General of India in Council, in India and in certain territories adjacent thereto:

Now, therefore, His Majesty, by virtue and in exercise of the powers by the Foreign Jurisdiction Act, 1890,* or otherwise in His Majesty vested, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Indian (Foreign Jurisdiction) Order in Council, 1902.

2. The limits of this Order are the territories of India outside British India, and any other territories which may be declared by His Majesty in Council to be territories in which jurisdiction is exercised by or on behalf of His Majesty through the Governor-General of India in Council, or some authority subordinate to him, including the territorial waters of any such territories.

3. The Governor-General of India in Council may, on His Majesty's behalf, exercise any power or jurisdiction which His Majesty or the Governor-General of India in Council for the time being has within the limits of this Order, and may delegate any such power or jurisdiction to any servant of the British Indian Government in such manner, and to such extent, as the Governor-General in Council from time to time thinks fit.

4. The Governor-General in Council may make such rules and orders as may seem expedient for carrying this Order into effect, and in particular—

- (a.) for determining the law and procedure to be observed, whether by applying with or without modifications all or any of the provisions of any enactment in force elsewhere, or otherwise;
- (b.) for determining the persons who are to exercise jurisdiction, either generally or in particular classes of cases, and the powers to be exercised by them;
- (c.) for determining the courts, authorities, judges, and magistrates, by whom, and for regulating the manner in which, any jurisdiction, auxiliary or incidental to or consequential on the jurisdiction exercised under this Order, is to be exercised in British India;
- (d.) for regulating the amount, collection, and application of fees.

5. All appointments, delegations, certificates, requisitions, rules, notifications, processes, orders, and directions made or issued under or in pursuance of any enactment of the Indian Legislature regulating the exercise of foreign jurisdiction, are hereby confirmed, and shall have effect as if made or issued under this Order.

6. The Interpretation Act, 1889,† shall apply to the construction of this Order.

A. W. FitzRoy.

* 53 & 54 Vict. c. 37.

† 52 & 53 Vict. c. 63.

6. Morocco.**THE MOROCCO ORDER IN COUNCIL, 1889.**

At the Court at Windsor, the 28th day of November 1889.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.

Earl of Zetland.

Secretary Lord Knutsford.

Lord Ashbourne.

Sir James Fergusson, Bart.

Sir James Caird.

Whereas by treaty, grant, usage, sufferance, and other lawful means, Her Majesty the Queen has power and jurisdiction, in relation to Her Majesty's subjects and others, within the dominions of His Majesty the Sultan of Morocco and Fez :

Now, therefore, Her Majesty, by virtue and in exercise of the powers in this behalf by the Foreign Jurisdiction Acts, 1843 to 1878,* or otherwise, in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

1. Preliminary.*Short Title.*

1. This Order may be cited as the Morocco Order in Council, 1889.

Commencement.

2.—(1.) This Order shall take effect at the expiration of one month after it is first exhibited in the public office of the Consulate at Tangier.

(2.) For that purpose the Consul at Tangier shall forthwith, on the receipt by him from the Consul-General of a certified printed copy of this Order, affix and exhibit the same conspicuously in that office.

(3.) He shall also keep the same so affixed and exhibited during one month from that first exhibition.

(4.) Notice of the time of that first exhibition shall, as soon as practicable, be published at each of the other Consulates in Morocco, in such manner as the Consul-General directs.

Proof shall not in any proceeding or matter be required that the provisions of this article have been complied with, nor shall any act or proceeding be invalidated by any failure to comply with any of such provisions.

Repeal.

3. The following Orders in Council relating to the exercise of Her Majesty's power and jurisdiction in Morocco are hereby

* 6 & 7 Vict. c. 94 ; 29 & 30 Vict. c. 87 ; 38 & 39 Vict. c. 85 ; 41 & 42 Vict. c. 67 ; repealed and consolidated by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

repealed, subject to the exceptions and qualifications in this Order mentioned, namely :—

- (i.) The Order in Council dated the 27th August, 1857.*
- (ii.) The Order in Council dated the 4th February, 1875.†

Interpretation.

4. In the construction of this Order the following words and expressions shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant thereto ; that is to say—

- (i.) "Morocco," or the expression "the limits of this Order," means the dominions of His Majesty the Sultan of Morocco and Fez (in this Order referred to as the Sultan of Morocco), including Moorish waters, that is to say, the territorial waters of those dominions ;
- (ii.) "The Secretary of State" means one of Her Majesty's Principal Secretaries of State ;
- (iii.) "Her Majesty's Minister" means Her Majesty's Minister Plenipotentiary, Chargé d'Affaires, or other chief diplomatic representative in Morocco for the time being ;
- (iv.) "The Consul-General" means Her Majesty's Consul-General in Morocco for the time being, including a person acting temporarily, with the approval of the Secretary of State, as or for Her Majesty's Consul-General, either generally or for the purpose of performing the judicial functions of the Consul-General ;
- (v.) "Consular Officer" means a Consul, Vice-Consul, or Consular Agent of Her Majesty in Morocco, including a person acting temporarily, with the approval of the Secretary of State, as or for a Consul, Vice-Consul, or Consular Agent of Her Majesty, but does not include the Consul-General, or an Acting Consul-General ;
- (vi.) "Commissioned consular officer" means a consular officer, not being merely a consular agent, and holding a commission from Her Majesty, including a person acting temporarily, with the approval of the Secretary of State, as or for such a consular officer ;
- (vii.) "Superintending Consul" means a commissioned consular officer having, by virtue of his commission or appointment, or by authority of the Secretary of State, either generally or for all or any of the purposes of this Order, superintendence over any uncommissioned consular officer ;
- (viii.) "Uncommissioned consular officer" means a consular officer not holding such a commission, including a person acting temporarily, with the approval of

* Published in "London Gazette," October 2nd, 1857, p. 3285.

† Published in "London Gazette," February 5th, 1875, p. 452.

- the Secretary of State, as or for such a consular officer ;
- (ix.) "Consulate" and "consular office" refer to the Consulate and office of a consular officer ;
 - (x.) "Consular district" means the district in and for which a consular officer usually acts, or for which he may be authorised to act, for all or any of the purposes of this Order by authority of the Secretary of State ;
 - (xi.) "British subject" means a subject of Her Majesty by birth or by naturalisation ;
 - (xii.) "British-protected person" means a person properly enjoying Her Majesty's protection in Morocco, including, by virtue of the Act 39 & 40 Vict. c. 46,* all subjects of the several Princes and States in India in alliance with Her Majesty, residing or being in Morocco ;
 - (xiii.) "Resident" means having a fixed place of abode in Morocco ;
 - (xiv.) "Moorish subject" means a subject of the Sultan of Morocco ;
 - (xv.) "Foreigner" means a subject or citizen of a state in amity with Her Majesty other than Morocco ;
 - (xvi.) "The Supreme Court of Gibraltar," or "The Supreme Court," means the Supreme Court of Her Majesty's garrison and territory of Gibraltar ;
 - (xvii.) "The Court for Morocco," or "The Court," means the Court established by this Order ; and "the Court" also includes the Supreme Court, or a Judge thereof acting in Morocco ;
 - (xviii.) "Offence" includes crime, and any act punishable criminally, in a summary way or otherwise ;
 - (xix.) "Prosecutor" means complainant or any person appointed or allowed by the Court to prosecute ;
 - (xx.) "Month" means calendar month ;
 - (xxi.) "Pounds" means pounds sterling ;
 - (xxii.) "Will" means will, codicil, or other testamentary instrument ;
 - (xxiii.) "Administration" means (unless a contrary intention appears from the context) letters of administration, including the same with will annexed, or granted for special or limited purposes ;
 - (xxiv.) "Paper" includes deed, memorandum, or other document ;
 - (xxv.) "Ship" includes any vessel used in navigation, howsoever propelled, with her tackle, furniture, and apparel, and any boat or other craft ;
 - (xxvi.) "Office copy" means a copy, either made under direction of the Court, or produced to the proper

* The Slave Trade Act, 1876. Section 4 of this Act is repealed and consolidated by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37), ss. 15, 18.

officer of the Court for examination with the original, and examined by him therewith, and in either case sealed with the seal of the Court, as evidence of correctness ;

- (xxvii.) "Oath" and "Affidavit," and words referring thereto, or to swearing, include affirmation and declaration, and refer thereto, or to the making of an affirmation or declaration, where an affirmation or declaration is admissible in lieu of an oath or affidavit ;
- (xxviii.) "Proved" means shown by evidence on oath, in the form of affidavit, or other form, to the satisfaction of the Court, or of the member or officer thereof acting or having jurisdiction in the matter ;
- (xxix.) "Proof" means the evidence adduced in that behalf ;
- (xxx.) "Person" includes corporation ;
- (xxxi.) Words importing the plural or the singular, may be construed as referring to one person or thing, or to more than one person or thing, and words importing the masculine as referring to females (as the case may require).

II.—Application and Effect of Order.

5. The jurisdiction hereby conferred shall extend to the persons and matters following, in so far as by treaty, grant, usage, sufferance, or other lawful means Her Majesty has jurisdiction in relation to such persons and matters, that is to say :—

- (1.) All persons within the limits of this Order who are British subjects by birth or naturalisation, or are otherwise for the time being subject to British law.
- (2.) All British-protected persons within the said limits.
- (3.) The property and all personal or proprietary rights and liabilities within the said limits of any such persons as before mentioned, or situate for the time being within the said limits, and belonging to British subjects or protected persons, although such subjects or persons may not be within the said limits.
- (4.) Moorish subjects in the cases specified in this Order.
- (5.) All other persons, whether natives of Africa or not, and whether subjects of any non-African Power or not, who submit themselves to the jurisdiction in accordance with this Order, and who give such security as the Consular Court requires for obedience to the order of the Court.
- (6.) British ships, with their boats, and the persons and property on board thereof, or belonging thereto, being on the coasts or in the harbours or waters of any country or place within the limits of this Order.
- (7.) Natives of Africa being subjects of any native King or Chief, who, by treaty or otherwise, consents to their being subject to the jurisdiction.

Crimes, offences, wrongs, and breaches of contract committed against or affecting the person, property, or rights of natives of Morocco, or other persons not being British subjects, committed by persons subject to this Order, are punishable or otherwise cognisable under the provisions of this Order, with the consent of such natives or persons, in the same manner as if they were committed against or affected the person, property, or rights of British subjects.

6. All Her Majesty's jurisdiction exercisable in Morocco for the hearing and determination of criminal or civil matters, or for the maintenance of order, or for the control or administration of persons or property, or in relation thereto, shall be exercised under and according to the provisions of this Order, and not otherwise.

III.—*Court for Morocco : Supreme Court of Gibraltar.*

7.—(1.) There shall be and there is hereby established a Court styled Her Britannic Majesty's Consular Court for Morocco.

(2.) Subject to the other provisions of this Order, Her Majesty's jurisdiction in Morocco shall be and is hereby vested in the Court for Morocco.

(3.) The members of the Court shall be the consular officers ; but—

- (i.) as regards the commissioned consular officers, with such exceptions, if any, as the Secretary of State from time to time thinks fit to make ; and
- (ii.) as regards the uncommissioned consular officers, with such exceptions, if any, as the Consul-General from time to time thinks fit to make by writing signed by him.

(4.) Each member of the Court, in exercising the jurisdiction thereof in conformity with this Order, shall for the purposes of this Order be deemed to form and be the Court ; and the term "the Court for Morocco," or "the Court," or "the Consular Court," in this Order includes and applies to the Court for Morocco and every member so exercising jurisdiction, and to the Consul-General when exercising jurisdiction under this Order.

(5.) The jurisdiction of the Court shall, for and within each consular district, be exercised, subject and according to the provisions of this Order, and to any directions of the Secretary of State, by the consular officers for that district.

(6.) Nevertheless, each superintending Consul shall, subject and according to the provisions of this Order, have in all matters, criminal and civil, an original jurisdiction concurrent with the jurisdiction of the several uncommissioned consular officers within his district.

8. The Court shall have a seal, bearing the style of the Court and such device as the Secretary of State from time to time approves, but until such a seal is provided, a stamp, bearing the words Court for Morocco, may be used instead thereof.

9.—(1.) Subject to the directions of the Secretary of State, the Consul-General may from time to time appoint such and so many persons to be registrars, clerks, bailiffs, interpreters, and other officers of the Court as he thinks fit, and remove from office any person so appointed.

(2.) Any registrar of the Court, and any other officer of the Court designated in this behalf by the Consul-General, may administer oaths, and take affidavits, declarations, and affirmations.

(3.) Each uncommissioned consular officer shall be, and act as, the registrar of the Court for his own district, if there is no other person appointed to be registrar there.

10.—(1.) An assessor in the Court, under this Order, shall be a competent and impartial British subject or British-protected person, of good repute, nominated and summoned by the Court to act as assessor therein.

(2.) An assessor shall not have a voice in the decision of the Court in any case, criminal or civil.

(3.) But an assessor dissenting, in a criminal case, from any decision of the Court or from the sentence, or dissenting, in a civil case, from any decision of the Court, may record in the minutes of proceedings his dissent, and the grounds thereof.

(4.) An assessor dissenting shall be entitled to receive, without payment, a certified copy of the minutes.

11.—(1.) For better effectuating the provisions of this Order concerning the power and authority of the Supreme Court of Gibraltar in communication with the Court for Morocco, the Supreme Court shall, in all civil matters within the jurisdiction of the Court for Morocco,—except as between British subjects and British-protected persons on the one hand and Moorish subjects on the other hand,—and shall in all criminal matters, in which the defendant is a British subject or British-protected person, have an original jurisdiction concurrent with the jurisdiction of the Court for Morocco, to be exercised subject to and in accordance with the provisions of this Order, and of any rules of procedure made under this Order, but in other respects with all the powers and authority which the Supreme Court has independently of this Order. Any jurisdiction exercisable by the Supreme Court under this article, or otherwise under this Order, may be exercised by any Judge of that Court at Gibraltar or at any place within the limits of this Order.

(2.) But that concurrent civil jurisdiction of the Supreme Court shall not be so exercised as to interfere with the due exercise by the Court for Morocco of its jurisdiction under this Order, nor in criminal matters except at the request or with the consent of the Consul-General or of the Secretary of State, and the Supreme Court shall not be bound, unless in any case it thinks fit, by writ of certiorari or otherwise, to debar or prohibit the Court for Morocco from hearing and determining in pursuance of this Order any civil matter, or to stay any civil proceeding in the Court for Morocco.

(3.) The Court for Morocco may, of its own motion, or on the application of any person concerned, report to the Supreme Court the pendency of any civil case, appearing to the Court for Morocco fit to be heard and determined by the Supreme Court.

(4.) The Supreme Court may thereupon entertain the case, and may hear and determine it in whole or in part, or remit it with or without any declaration, and may direct in what mode and where the case shall be heard and determined.

(5.) Any decision of the Court for Morocco in a civil matter may be given subject to a case to be stated by or under the direction of the Court for Morocco for the opinion or direction of the Supreme Court.

(6.) The Supreme Court and the Court for Morocco shall be auxiliary to one another in all particulars relative to the administration of justice, criminal or civil, and all registrars, clerks, bailiffs, interpreters, and officers of either Court shall be deemed competent and qualified to act in the same capacity in relation to the other Court.

(7.) The Court for Morocco shall execute a writ or order issuing from the Supreme Court in any matter in which the Supreme Court has jurisdiction, and may take security from any person named in such a writ or order for his appearance personally or otherwise, and may, in default of security, or when the Supreme Court so orders, send and remove the person to Gibraltar.

12.—(1.) Notwithstanding anything in this Order, the Court for Morocco shall not, nor shall, by virtue of this Order, the Supreme Court for Gibraltar, exercise any jurisdiction in any proceeding whatsoever over Her Majesty's Minister, or his official or other residences or his official or other property.

(2.) Notwithstanding anything in this Order, the Court for Morocco shall not, nor shall, by virtue of this Order, the Supreme Court, exercise, except with the consent of Her Majesty's Minister, signified in writing to the Court or to the Supreme Court, any jurisdiction in a civil action or proceeding over any person attached to or being a member of Her Majesty's Legation in Morocco, or being a domestic servant of Her Majesty's Minister.

(3.) If, in any case, under this Order, it appears to the Court for Morocco, or to the Supreme Court, that the attendance of Her Majesty's Minister, or of any person attached to or being a member of Her Majesty's Legation in Morocco, or being a domestic servant of Her Majesty's Minister, to give evidence before the Court, or the Supreme Court, is requisite in the interest of justice, the Court for Morocco, or the Supreme Court (as the case may be), may address to Her Majesty's Minister a request in writing for such attendance.

(4.) A person attending to give evidence before the Court or the Supreme Court shall not be compelled or allowed to give any evidence or produce any document if, in the opinion of Her Majesty's Minister, signified by him personally or in writing to the Court or to the Supreme Court, the giving or production thereof would be injurious to Her Majesty's service.

IV.—*Criminal Matters.*

13.—(1.) Except as regards acts declared by this Order to be offences against this Order, or made by this Order the subject of criminal proceedings under this Order, any act or omission that would not by a Court having criminal jurisdiction in England be deemed an offence in England shall not, in the exercise of criminal jurisdiction under this Order, be deemed an offence, or be the subject of any criminal proceeding under this Order.

(2.) Subject to the provisions of this Order, criminal jurisdiction under this Order shall, as far as circumstances admit, be exercised on the principles of, and in conformity with, the statute and other law for the time being in force in and for England, and with the powers vested in the Courts of Justice, and Justices of the Peace, in England, according to their respective jurisdiction and authority.

14.—Offences against this Order are, for distinction of punishment, distinguished in this Order as (a) offences against this Order, and (b) grave offences against this Order.

15.—(1.) If any person is guilty of an offence against this Order, not distinguished as a grave offence against this Order, he is liable in the discretion of the Court—

- (i.) to a fine not exceeding five pounds, without any imprisonment ; or
- (ii.) to imprisonment not exceeding one month, without fine ; or
- (iii.) to imprisonment not exceeding fourteen days, with a fine not exceeding fifty shillings.

(2.) Imprisonment under this article is without hard labour.

16.—(1.) If any person is guilty of an offence against this Order, distinguished as a grave offence against this Order, he is liable in the discretion of the Court—

- (i.) to a fine not exceeding ten pounds, without imprisonment ; or
- (ii.) to imprisonment, not exceeding two months, without fine ; or
- (iii.) to imprisonment not exceeding one month, with a fine not exceeding five pounds.

(2.) Imprisonment under this article is, in the discretion of the Court, with or without hard labour.

17. The Court may cause to be summoned or arrested and brought before it any person subject to its criminal jurisdiction, being in Morocco, and charged with having committed an offence cognisable under this Order, and may deal with the accused according to the jurisdiction of the Court, and in conformity with the provisions of this Order.

18. For the purposes of criminal jurisdiction, every offence and cause of complaint committed or arising in Morocco shall be deemed to have been committed or to have arisen, either in the place where the same actually was committed or arose, or

in any place in Morocco where the person charged or complained of happens to be at the time of the institution or commencement of the charge or complaint.

19. Subject to the other provisions of this Order, the Court may adjudge punishment as follows, but not further or otherwise, namely :—

- (i.) Imprisonment not exceeding twelve months, with or without hard labour, and with or without a fine not exceeding fifty pounds ; or
- (ii.) A fine not exceeding fifty pounds, without imprisonment ; and
- (iii.) In case of a continuing offence,—in addition to any such punishment by imprisonment or a fine, or both, as aforesaid,—a fine not exceeding in any case ten shillings for each day during which the offence continues after the day of the commission of the original offence.

Nothing herein shall limit the power of a Judge of the Supreme Court when exercising criminal jurisdiction within the limits of this Order, but such Judge may pass any sentence which could be passed in Gibraltar by the Supreme Court or a Judge thereof.

20.—(1.) In each of the two following cases, namely :—

- (i.) Where the offence charged is murder or manslaughter, or assault endangering life, or arson, or house-breaking ; or
- (ii.) Where it appears to the Court, at any time before the trial, the opinion of the Court being recorded in the minutes, that the offence charged, if proved, would not be adequately punished by imprisonment for three months, with hard labour, or by a fine of twenty pounds, or both such imprisonment and fine ;

The charge shall be triable with assessors, and not otherwise, unless the accused person consents to trial without assessors.

(2.) Where this Order does not enact that a charge shall be triable with assessors, it shall be triable by a summary trial without assessors, unless the Court, in its discretion, for any special reason recorded in the minutes, directs that it shall be triable by summary trial with assessors.

(3.) Where a charge is tried by summary trial, the punishment adjudged shall not exceed imprisonment for three months, with or without hard labour, or a fine of twenty pounds, or both such imprisonment and fine.

21.—(1.) Where a person, subject to the criminal jurisdiction of the Court, is charged with an offence on a summons or warrant issuing out of the Court, he shall be brought before the Court within forty-eight hours after service of the summons or execution of the warrant, unless in any case circumstances unavoidably prevent his being brought before the Court within that time, which circumstances shall be recorded in the minutes.

(2.) In every case he shall be brought before the Court as soon as circumstances reasonably admit, and the time and circumstances shall be recorded in the minutes.

22.—(1.) Where the accused is ordered to be tried before the Court with assessors, he shall be tried as soon after the making of the Order as circumstances reasonably admit.

(2.) As long notice of the time of trial as circumstances reasonably admit shall be given to him in writing, under the seal of the Court, which notice, and the time thereof, shall be recorded in the minutes.

23.—(1.) Where an accused person is in custody, he shall not be remanded at any time for more than seven days, unless circumstances appear to the Court to make it necessary or proper that he should be remanded for a longer time, which circumstances, and the time of remand, shall be recorded in the Minutes.

(2.) In no case shall a remand be for more than fourteen days at one time, unless in case of illness of the accused person or other case of necessity.

24.—(1.) Except in cases of murder, an accused person may be admitted to bail at any stage of the proceedings.

(2.) Where the offence charged is one of the following, it shall be in the discretion of the Court to admit the accused to bail or not, according to the circumstances, namely :—

Felony (not being murder).

Riot.

Assault on an officer of the Court in the execution of his duty, or on any person acting in his aid.

Neglect or breach of duty by an officer of the Court.

(3.) In all other cases except murder the Court shall admit the accused to bail, unless in any instance the Court, having regard to the circumstances, sees good reason to the contrary, which reason shall be recorded in the minutes.

(4.) The Consul-General may, if he thinks fit, admit to bail a person charged with any offence except murder, although the Court for Morocco, in the exercise of its discretion, has not thought fit to admit the accused to bail.

(5.) The Supreme Court may, if it thinks fit, admit to bail a person charged with any offence except murder before the Court for Morocco, although the Court for Morocco, in the exercise of its discretion, or the Consul-General, in the exercise of his discretion, has not thought fit to admit the accused to bail.

25.—(1.) If, on a trial, the Court is of opinion that the accused attempted to commit the offence with which he is charged, but did not complete it, he shall not be therefore acquitted, but the Court may find him guilty of the attempt, and may adjudge him to be punished, as if he had been charged with the attempt.

(2.) He shall not be liable to be afterwards prosecuted for the attempt.

26.—(1.) If, on the trial of a person charged with robbery, the Court is of opinion that the accused committed an assault

with intent to rob, but did not commit robbery, he shall not be therefore acquitted, but the Court may find him guilty of the assault, and may adjudge him to be punished as if he had been charged with the assault.

(2.) He shall not be liable to be afterwards prosecuted for the assault.

27.—(1.) If, on a trial for any of the following offences, namely :—burglary, or stealing in a dwelling-house, or breaking and entering and stealing in a shop, warehouse, or counting-house, or a building within the curtilage of a dwelling-house, or larceny, or receiving—the facts proved authorise a conviction for one of those offences, not being the offence charged, the Court may find the accused guilty of that other offence, and may adjudge him to be punished, as if he had been charged with that other offence.

(2.) He shall not be liable to be afterwards prosecuted for that other offence.

28.—(1.) The Court may, if it thinks fit, order a person convicted of an assault to pay to the person assaulted, by way of damages, any sum not exceeding ten pounds.

(2.) Damages so ordered to be paid may be either in addition to or in lieu of a fine, and shall be recoverable in like manner as a fine.

(3.) Payment of such damages shall be a defence to an action for the assault.

29.—(1.) On a conviction on summary trial, the Court may, in its discretion, order, in and by the conviction, that the defendant shall pay to the prosecutor such costs as to the Court seem fit, the amount being therein specified.

(2.) Where, on a summary trial, the Court, instead of convicting the accused, dismisses the charge, the Court may, in its discretion, in and by the order of dismissal, order that the prosecutor shall pay to the defendant such costs as to the Court seem fit, the amount being therein specified.

30.—(1.) The Court may, if it thinks fit, order a person convicted before it to pay all or part of the expenses of his prosecution, or of his imprisonment or other punishment, or of both, the amount being specified in the order.

(2.) Where it appears to the Court that a charge is malicious, or frivolous and vexatious, the Court may, if it thinks fit, order the person making the charge to pay all or part of the expenses of the prosecution, the amount being specified in the order.

(3.) In these respective cases, the Court may, if it thinks fit, order that the whole, or such portion as the Court thinks fit, of the expenses so paid be paid over to the prosecutor or to the accused (as the case may be).

(4.) In all cases the reasons of the Court for making any such order, or for refusing it, if applied for, shall be recorded in the minutes.

31.—(1.) The Consul-General may from time to time, by general order, prescribe the manner in which, and the places in Morocco at which, sentences, whether passed by the Court for Morocco, or by the Supreme Court, or a Judge thereof, are to be carried into execution.

(2.) The Consul-General may, if he thinks fit, in any case, by warrant, signed by him and sealed with his consular seal, cause an offender convicted and sentenced to death or imprisonment to be sent and removed to and imprisoned in any place in Morocco.

32. Where an offender is sentenced to imprisonment, and the Consul-General considers it expedient that the sentence be carried into effect within Her Majesty's dominions, and the offender is, accordingly, under section 5 of the Foreign Jurisdiction Act, 1843,* sent for imprisonment to a place in Her Majesty's dominions, the place shall be Gibraltar, or a place in some other part of Her Majesty's dominions out of the United Kingdom, the Government whereof consents that offenders may be sent thither under this article.

33. The Fugitive Offenders Act, 1881,† and the Colonial Prisoners Removal Act, 1884,‡ shall apply to all places to which this Order applies as if such places were British possessions, and part of Her Majesty's dominions, and to all persons (but those only) to whom this Order applies; and for the purposes of Part II. of the said Act of 1881, and of this article in relation thereto, all the places to which this Order for the time being applies, and Gibraltar and Malta, shall, for the purposes of Part II. of the said Act of 1881, be deemed to be one group of British possessions; and the Consul-General shall, as regards any place within his jurisdiction, have, for the purposes of either of the said Acts, the powers of a Governor or Superior Court of a British possession.

34.—(1.) The Court shall forthwith send to the Consul-General, in such form as any rules to be made under this Order shall from time to time direct, a report of the sentence of the Court in every criminal case tried, with such an abstract (if any) of the minutes, and such notes (if any) of evidence, as such rules may direct, and with any observations which the Court thinks fit to make.

(2.) The Consul-General may suspend the execution of any sentence, or of any part thereof, on bail or security being given to his satisfaction for payment of any fine adjudged, or surrender or submission to the sentence, or so much thereof as may not have been executed, as the case may require. Every such suspension shall be forthwith notified to the Secretary of State, and effect shall be given to his directions as to remission or further execution of the sentence, or any part thereof.

(3.) Paragraph (2) of this article does not apply where an appeal is made to the Supreme Court, or where the trial has been held by a Judge of the Supreme Court.

* 6 & 7 Vict. c. 94; now repealed and consolidated with other Acts by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

† 44 & 45 Vict. c. 69.

‡ 47 & 48 Vict. c. 31.

35. The Consul-General shall, if and when required by the Secretary of State, transmit to him, with any observations which the Consul-General thinks fit to make, the report and papers sent to the Consul-General under the last foregoing article of this Order, and a report of any direction of the Consul-General thereon.

36.—(1.) The Consul-General may, if he thinks fit, report to the Secretary of State, recommending a mitigation or remission of a punishment adjudged by the Court; and thereupon the punishment may be mitigated or remitted by the Secretary of State.

(2.) Nothing in this Order shall affect Her Majesty's prerogative of pardon.

37. If a person subject to the criminal jurisdiction of the Court wilfully gives false evidence on oath in any case, criminal or civil, or on a reference to arbitration, or in an affidavit filed in the Court, he shall, independently of any other liability, be guilty of a grave offence against this Order.

38.—(1.) In cases of murder or manslaughter, if either the death or the criminal act which wholly or partly caused the death happened within the jurisdiction of a Court acting under this Order, such Court shall have the like jurisdiction over any British subject who is charged either as the principal offender, or as accessory before the fact to murder, or as accessory after the fact to murder or manslaughter, as if both such criminal acts and the death had happened within such jurisdiction.

(2.) In the case of any crime committed on the high seas, or within the Admiralty jurisdiction by any British subject on board a British ship, or on board a foreign ship to which he did not belong, a Court acting under this Order shall have jurisdiction as if the crime had been committed within the district of such Court. In cases tried under this article no different sentence can be passed from the sentence which could be passed in England if the crime were tried there.

(3.) The foregoing provisions of this article shall be deemed to be adaptations, for the purposes of this Order and of the Foreign Jurisdiction Act, 1878,* of the following enactments described in the First Schedule to that Act (that is to say) :—

The Admiralty Offences (Colonial) Act, 1849.†

The Admiralty Offences (Colonial) Act, 1860.‡

The Merchant Shipping Act, 1867,§ section 11 ;

and the said enactments shall, so far as they are repeated and adopted by this Article (but not further or otherwise), extend to all places within the limits of this Order.

* 41 & 42 Vict. c. 67; now repealed and consolidated with other Acts by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

† 12 & 13 Vict. c. 96.

‡ 23 & 24 Vict. c. 122.

§ 30 & 31 Vict. c. 124; now repealed and consolidated with other Acts by the Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60).

39.—(1.) In either of the following two cases, namely :—

- (i.) Where the offence charged appears to the Consul-General to be such that, if proved, it would not be adequately punished by such punishment as the Court for Morocco has power to adjudge ;
- (ii.) Where it seems to the Consul-General, for any other reason, expedient that the offence charged be tried, determined, and punished within Her Majesty's dominions, elsewhere than in England ;

The accused may, under section 4 of the Foreign Jurisdiction Act, 1843,* be sent for trial to a place in Her Majesty's dominions.

(2.) The place shall be either Gibraltar, or a place in some other part of Her Majesty's dominions out of the United Kingdom, the Government whereof consents that accused persons may be sent thither under this article.

40. In any such case the Court shall take the preliminary examination of the accused, having regard, in so doing, to the provisions of section 4 of the Foreign Jurisdiction Act, 1843,* and may, if it thinks fit, bind over such of the proper witnesses as are British subjects or British-protected persons, or any of them, in their own recognisances, to appear and give evidence on the trial.

In determining whether it is expedient that the provisions of this article shall be applied in any case, the Consul-General shall have regard to the practicability of the trial being held within the limits of this Order by a Judge of the Supreme Court, and to the practicability of obtaining the attendance of witnesses elsewhere than in Morocco.

41.—(1.) Where it is proved that there is reasonable ground to apprehend that a person subject to the criminal jurisdiction of the Court is about to commit a breach of the public peace, or that the conduct of any such person is likely to produce or excite to a breach of the public peace or a grave disturbance of public order, the Court may, if it thinks fit, cause that person to be brought before the Court, and require him to give security to the satisfaction of the Court to keep the peace, or for his future good behaviour, as the case may require.

(2.) Where a person is convicted of an offence before the Court, the Court may, if it thinks fit, require him to give security to the satisfaction of the Court for his future good behaviour, and for that purpose may, if it thinks fit, cause him to be brought before the Court.

(3.) If a person required to give security fails to do so, the Court may, if it thinks fit, order that he be deported from Morocco to a place to be named by the Consul-General.

(4.) The Court on making an order of deportation, shall forthwith report to the Consul-General the Order, and the grounds thereof, and may require the person against whom the Order is made to give bail or security to the satisfaction of the Court for

* 6 & 7 Vict. c. 94 ; now repealed and consolidated with other Acts by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

obedience to the Order, and, in default, may, by warrant, order him to be detained in custody until the directions of the Consul-General are received. The Consul-General may confirm or remit the Order.

(5.) The person ordered to be deported may, if the Consul-General thinks fit, be, as soon as practicable—and in the case of a person convicted, either after execution of the sentence or while it is in course of execution—removed in custody, under the warrant of the Consul-General, to the place named in the warrant.

(6.) The place shall be a place in some part of Her Majesty's dominions prescribed by the secretary of State, or a place the Government whereof consents to the reception therein of persons deported under this Order. The order for deportation may in any case with reference to which the Secretary of State, by any general or special directions, so directs, provide for the deportation of the person to whom it refers in the first instance to any place, as above mentioned, and also for his further deportation from that place to any other such place.

(7.) The Consul-General may order the person deported to pay all or any part of the expenses of his deportation. Subject thereto, the expenses of deportation shall be defrayed in such manner as the Secretary of State, with the concurrence of the Commissioner of Her Majesty's Treasury, from time to time directs.

(8.) The Consul-General shall forthwith report to the Secretary of State every order of deportation made under this Order, and the grounds thereof and the proceedings thereunder.

(9.) An appeal shall not lie under this Order against an order of deportation.

(10.) If a person deported under this Order returns to Morocco without permission in writing of the Secretary of State, which permission the Secretary of State may give, he shall be guilty of a grave offence against this Order.

(11.) He shall also be liable to be forthwith again deported under the original order, and a fresh warrant of the Consul-General.

42.—(1.) In each of the following four cases, namely :—

- (i.) Where a person is convicted before the Court for Morocco on a summary trial, and is sentenced to a fine of ten pounds or upwards, or to imprisonment for one month or upwards, and declares his desire to appeal to the Supreme Court ;
- (ii.) Where a person is convicted before the Court for Morocco on a trial with assessors, and is sentenced to a fine of ten pounds or upwards, or to imprisonment for one month or upwards, and an assessor dissents from any decision of the Court on the trial, or from the conviction, or from the sentence, and the person convicted declares his desire to appeal to the Supreme Court ;
- (iii.) Where a person is convicted before the Court for Morocco and is sentenced to a fine of twenty pounds,

or to imprisonment for nine months, or to any severer punishment, and declares his desire to appeal to the Supreme Court ;

- (iv.) Where the Court for Morocco thinks fit to reserve for the judgment of the Supreme Court any question of law or fact arising on the trial ;

The Court for Morocco shall frame a statement setting out the facts, and the grounds of the conviction and sentence, and any question of law and any objection alleged by the person convicted.

(2.) The Court for Morocco shall annex to that statement certified copies of the summons, indictment (if any), and proceedings, and of all documentary evidence admitted or tendered, and appearing to that Court to be material, and the depositions, the notes of the oral testimony, any statement or objections to the conviction or sentence made by the person convicted, and any argument thereon that he desires to submit to the Supreme Court, and a note of the reasons why any tendered evidence which is not transmitted appears to the Court to be immaterial.

(3.) The Court for Morocco shall forthwith send the statement and its annexes to the Supreme Court.

(4.) The Court for Morocco shall postpone the execution of the sentence pending the appeal, and shall, as on a remand, either (if necessary) commit the person convicted to prison for safe custody, or admit him to bail, with or without security, by recognisance, deposit money, or otherwise.

(5.) The Supreme Court, sitting without a jury or assessors, shall hear and finally determine the matter, including all questions of law and of fact reserved for or arising before the Supreme Court, after considering the statement of the Court for Morocco, and hearing publicly any argument offered on behalf of the prosecution, or of the person convicted

(6.) The Supreme Court may require the Court for Morocco to make any amendment in or addition to its statement or the annexes thereto.

(7.) The judgment of the Supreme Court shall be delivered publicly.

(8.) The Supreme Court shall either affirm or annul the conviction, or amend it, and shall either affirm or annul the sentence or vary it, and shall give all necessary and proper consequential directions.

43. The Supreme Court shall not annul a conviction or sentence, or vary a sentence, on the ground—

- (i.) of any objection which, if stated during the trial, might, in the opinion of the Supreme Court, have been properly met by amendment by the Court for Morocco ;
or
- (ii.) of any error in the summoning of assessors ; or
- (iii.) of any person having served as assessor who was not qualified ; or
- (iv.) of any objection to any person as assessor which might have been raised before or at the trial ; or

- (v.) of any informality in the swearing of any witness ; or
- (vi.) of any error or informality which, in the opinion of the Supreme Court, did not affect the substance of the case or subject the appellant to any undue prejudice.

44. There shall be no appeal in a criminal case to Her Majesty the Queen in Council from a decision of the Supreme Court, except by special leave of Her Majesty in Council.

V.—*Civil Matters.*

45. Subject to the provisions of this Order, the civil jurisdiction of the Court for Morocco shall, as far as circumstances admit, be exercised on the principles of, and in conformity with, the statute and other law for the time being in force in and for England.

46.—(1.) Every civil proceeding in the Court shall be taken by action, and not otherwise, and shall be designated an action.

(2.) For the purposes of any statutory enactment or other provision applicable under this Order to any civil proceeding in the Court, an action under this Order shall comprise and be equivalent to a suit, cause, or petition, or to any civil proceeding howsoever required by any such enactment or provision to be instituted or carried on.

47.—(1.) Every action shall be heard and determined in a summary way.

(2.) Every application in the course of an action may be made to the Court orally, and without previous formality, unless in any case the Court otherwise directs.

(3.) No action or proceeding shall be treated by the Court as invalid on account of any technical error or mistake in form or in words.

(4.) All errors and mistakes may be corrected, and times may be extended, by the Court in its discretion, and on such terms as the Court thinks just.

48. Every action shall commence by a summons, issued from the Court, on the application of the plaintiff, and served on the defendant (in this Order referred to as an original summons).

49. The registrar in each consular district shall keep a book, called the action book, in which all actions brought in the Court in that district shall be entered, numbered consecutively in each year, in the order in which they are commenced, with a short statement of the particulars of each action, and a note of the several proceedings therein.

50.—(1.) An original summons shall not be in force for more than twelve months from the day of its date (including that day).

(2.) If any defendant named therein is not served therewith, the plaintiff may, before the end of the twelve months, apply to the Court for renewal thereof.

(3.) The Court, if satisfied that reasonable efforts have been made to serve the defendant, or for other good reason, may order that the summons be renewed for six months from the date of

renewal, and so, from time to time, during the currency of the renewed summons.

(4.) The summons shall be renewed by being resealed with the seal of the Court, and a note being made thereon by the registrar, stating the renewal and the date thereof.

(5.) A summons so renewed shall remain in force and be available to prevent the operation of any statute of limitation, and for all other purposes, as from the date of the original summons.

(6.) The production of a summons purporting to be so renewed shall be sufficient evidence of the renewal and of the commencement of the action, as of the date of the original summons, for all purposes.

51. If an action entered in the action book is not proceeded with and disposed of within twelve months from service of the original summons, the Court may, if it thinks fit, without application by any party, order the same to be dismissed for failure to proceed.

52. The Court may, at any time, if it thinks fit, either on or without application of a defendant, order the plaintiff to put in further particulars of his claim.

53. There shall ordinarily be no written pleadings; but the Court may at any time, if it thinks fit, order the plaintiff to put in a written statement of his claim, or a defendant to put in a written statement of his defence.

54. The evidence on either side may, subject to the direction of the Court, be wholly or partly oral, or on affidavit, or by deposition.

55.—(1.) Subject to the provisions of this Order, every civil action involving the amount or value of one hundred pounds or upwards shall be triable with assessors, if either party so requires, in such manner as may be prescribed by rules under this Order.

(2.) In all other cases a civil action shall be triable either with or without assessors, in the discretion of the Court.

56.—(1.) The registrar in each consular district shall keep a book called the order book.

(2.) Every order of the Court shall be noted therein.

(3.) Every order of the Court formally drawn up shall be entered by being copied therein.

(4.) The registrar shall make and keep therein proper alphabetical and other indexes to the contents thereof.

57.—(1.) A minute of every order, whether interlocutory or final, shall be made by the registrar in the minutes of proceedings at the time when the judgment or order is given or made.

(2.) Every such minute shall have the full force and effect of a formal order.

(3.) The Court may at any time order a formal order to be drawn up on the application of any party.

58. Where the Court delivers a decision in writing, the original, or a copy thereof, signed by the consular officer holding the Court,

shall be filed in the proper office of the Court with the papers in the action.

59.—(1.) An order shall not be drawn up in form except on the application of some party to the action, or by direction of the Court, and shall then be passed and be certified by the affixing thereto of the seal of the Court, and be entered, and it shall then be deemed to form part of the record in the action.

(2.) An order shall not be enforced or appealed from, nor shall an office copy of it be granted, until it forms part of the record.

(3.) An order shall bear the date of the day of the delivery of the decision on which the order is founded.

(4.) Any party to an action or proceeding is entitled to have an office copy of any order made therein.

60.—(1.) Ordinarily, an order of the Court shall not be enforced out of the consular district of the consular officer making the order.

(2.) Where, however, the Court thinks that the urgency or other peculiar circumstances of the case so require, the Court, acting by a commissioned consular officer, may, for reasons recorded in the minutes, order that any particular order be enforced out of the particular district.

61. All money ordered by the Court to be paid by any person shall be paid into an office of the Court, unless the Court otherwise directs.

62. Where money ordered by the Court to be paid is due for seamen's wages, or is other money recoverable under the Merchant Shipping Acts, or other law relating to ships, and the person ordered to pay is master or owner of a ship, and the money is not paid as ordered, the Court, in addition to other powers for compelling payment, shall have power to direct that the amount unpaid be levied by seizure and sale of that ship.

63. Where an order ordering payment of money remains wholly or in part unsatisfied, whether an execution order has been made or not, the person prosecuting the order (in this Order called the judgment creditor) may apply to the Court for an order ordering the person by whom payment is to be made (in this Order called the judgment debtor) to appear to be examined respecting his ability to make the payment; and the Court acting by a commissioned consular officer, shall, unless it sees good reason to the contrary, make an order accordingly.

64.—(1.) On the appearance of the judgment debtor, he may be examined on oath by or on behalf of the judgment creditor, and by the Court, respecting his ability to pay the money ordered to be paid, and for discovery of property applicable thereto, and respecting his disposal of any property.

(2.) He shall produce, on oath or otherwise, all books, papers, and documents in his possession or power relating to any property applicable to payment.

(3.) Whether the judgment debtor appears or not, the judgment creditor, and any witness whom the Court thinks requisite, may be examined, on oath or otherwise, respecting the same matters.

(4.) The Court may, if it thinks fit, adjourn the examination from time to time, and require from the judgment debtor such security for his appearance as the Court thinks fit; and, in default of his finding security, may, by order, commit him to the custody of an officer of the Court, there to remain until the adjourned hearing unless sooner discharged.

65. If it appears to the Court, by the examination of the judgment debtor or other evidence, that the judgment debtor then has sufficient means to pay the money directed to be paid by him, and he refuses or neglects to pay the same according to the order, then and in any such case the Court may, if it thinks fit, by order, commit him to prison for any time not exceeding forty days.

66. On the examination, the Court, if it thinks fit, whether it makes an order for commitment or not, may rescind or alter any order for the payment of money by instalments or otherwise, and may make any further or other order, either for the payment of the whole amount forthwith, or by instalments, or in any other manner as the Court thinks fit.

67.—(1.) The expenses of the judgment debtor's maintenance in prison shall be defrayed, in the first instance, by the judgment creditor, and may be recovered by him from the judgment debtor as the Court directs.

(2.) The expenses shall be estimated by the Court, and shall be paid by the judgment creditor at such times and in such manner as the Court directs.

(3.) In default of payment, the judgment debtor may be discharged if the Court thinks fit.

68. Imprisonment of a judgment debtor under the foregoing provisions does not operate as a satisfaction or extinguishment of the debt or liability to which the order relates, or protect the debtor from being anew imprisoned for any new default making him liable to be imprisoned, or deprive the judgment creditor of any right to have execution against his goods, as if there had not been such imprisonment.

69. The judgment debtor, on paying at any time the amount ordered to be paid, and all costs and expenses, shall be discharged.

70. Where the order of the Court is one ordering some act to be done other than payment of money, there shall be indorsed on the copy of it served on the person required to obey it a memorandum in the words, or to the effect following :—

If you, the within-named A.B., neglect to obey this order within the time therein appointed, you will be liable to be arrested, and your property may be sequestered.

71.—(1.) Where the person directed to do the act fails to do

it according to the order, the person prosecuting the order may apply to the Court for another order for the arrest of the disobedient person.

(2.) Thereupon the Court may make an order ordering and empowering an officer of the Court therein named to take the body of the disobedient person and detain him in custody until further order.

(3.) He shall be liable to be detained in custody until he has obeyed the order in all things that are to be immediately performed, and given such security, as the Court thinks fit, to obey the order in other respects (if any) at the future times thereby appointed.

72.—(1.) On proof of great urgency or other peculiar circumstances, the Court may, if it thinks fit, before service of a writ or summons in an action, and without notice, make an order of injunction, or an order to sequester money or goods, or to stop the clearance of a vessel, or to hold to bail, or to attach property.

(2.) Before making the order the Court shall require the person applying for it to enter into a recognisance, with or without a surety or sureties, as the Court thinks fit, as security for his being answerable in damages to the person against whom the order is sought.

(3.) The order shall not remain in force more than twenty-four hours, and shall at the end of that time wholly cease to be in force, unless within that time an action is regularly brought by the person obtaining the order.

(4.) The order shall be dealt with in the action as the Court thinks fit.

73.—(1.) An order to hold to bail shall state the amount, including costs, for which bail is required.

(2.) It shall be executed forthwith.

(3.) The person arrested under it shall be entitled to be discharged from custody under it on bringing into Court the amount stated in the order, to abide the event of such action as may be brought, or on entering into a recognisance, with or without a surety or sureties, as the Court thinks fit, as security that he will abide by the orders of the Court in any action brought.

(4.) He shall be liable to be detained in custody under the order for not more than seven days, if not sooner discharged; but the Court may, from time to time, if it thinks fit, renew the order.

(5.) No person, however, shall be kept in custody under any such order and renewed order for a longer time, in the whole, than thirty days.

74.—(1.) Where an action is brought for the recovery of a sum exceeding five pounds, and it is proved that the defendant is about to abscond for the purpose of defeating the plaintiff's claim, the Court may, if it thinks fit, order that he be arrested and delivered into safe custody, to be kept until he gives bail or security, with a surety or sureties, in such sum, expressed in the order, as the Court thinks fit, not exceeding the probable amount of debt or

damages and costs to be recovered in the action, that he will appear at any time when called on, while the action is pending, and until execution or satisfaction of any order made against him, and that, in default of appearance, he will pay any money and costs which he is ordered to pay in the action.

(2.) The expenses incurred for the subsistence of the defendant while under arrest shall be paid by the plaintiff in advance at such rate and in such amounts as the Court directs; and the total amount so paid may be recovered by the plaintiff in the action, unless the Court otherwise directs.

(3.) The Court may at any time, on reasonable cause shown, discharge or vary the order.

75.—(1.) Where it is proved that the defendant, with intent to obstruct or delay the execution of any order obtained or to be obtained against him, is about to remove any property out of Morocco, the Court may, if it thinks fit, on the application of the plaintiff, order that property be forthwith seized and secured.

(2.) The Court may at any time, on reasonable cause shown, discharge or vary the order.

76.—(1.) On proof of great urgency or other peculiar circumstances, after an action is brought, the Court may, if it thinks fit, on the application of a plaintiff, or of its own motion, make an order for stopping the clearance of, or for the arrest and detention of, a vessel about to leave Morocco, other than a vessel enjoying immunity from civil process.

(2.) The Court may at any time, on reasonable cause shown, discharge or vary the order.

77.—(1.) If it appears to the Court that any order made under any of the last four foregoing articles of this Order was applied for on insufficient grounds, or if the plaintiff's action fails, or judgment is given against him, by default or otherwise, and it appears to the Court that there was no sufficient ground for his bringing the action, the Court may, if it thinks fit, on the application of the defendant, order the plaintiff to pay to the defendant such amount as appears to the Court to be a reasonable compensation to the defendant for the expense and injury occasioned to him by the execution of the order.

(2.) Payment of compensation under this article is a bar to any action for damages in respect of anything done in pursuance of the order, and any such action, if begun, shall be stayed by the Court in such manner and on such terms as the Court thinks fit.

78.—(1.) The Supreme Court for Gibraltar shall have, for and in Morocco, in relation to the following classes of persons, being either resident in Morocco or carrying on business there, namely, British subjects and British-protected persons, and their creditors and debtors, being British subjects or British-protected persons, or Moorish subjects, submitting themselves to the jurisdiction of the Court, or foreigners so submitting, all such jurisdiction in bankruptcy as for the time being the Court of Bankruptcy

of Gibraltar or the Supreme Court has in Gibraltar in relation to persons resident or carrying on business there.

(2.) But in every such case the Court for Morocco shall have a concurrent jurisdiction with the Supreme Court, to be exercised subject and according to the provisions of this Order.

(3.) Proceedings in bankruptcy in the Court for Morocco shall be originated by a summons to the party to be made bankrupt to show cause why he should not be adjudicated bankrupt, or by a summons issued by a debtor himself to his creditor, or any of his creditors, to show cause why he (the debtor) should not be adjudicated bankrupt.

(4.) On or at any time after the issue of such a summons, the Court for Morocco may stay any proceedings pending in any Court in any action, execution, or other legal process against the debtor in respect of any debt proveable in bankruptcy, or it may allow such proceedings, whether pending at the commencement of the bankruptcy or begun during the continuance of the bankruptcy, to proceed on such terms as the Court thinks fit.

(5.) The Court for Morocco may, on or at any time after the issue of such a summons, appoint a receiver or manager of the property or business of the debtor, or of any part thereof, and may direct immediate possession to be taken by an officer of the Court, or under the control of the Court, of that property or business, or of any part thereof.

(6.) Subject to the provisions of this article, the Court for Morocco shall not proceed in the bankruptcy except subject and according to the directions of the Supreme Court.

79.—(1.) The Supreme Court for Gibraltar shall have, for and in Morocco, in relation to British subjects and British-protected persons, all such jurisdiction relative to the custody and management of the persons and estates of persons of unsound mind, as for the time being the Supreme Court has in Gibraltar.

(2.) But in every such case the Court for Morocco shall have a concurrent jurisdiction with the Supreme Court, to be exercised subject and according to the provisions of this Order.

(3.) In any such case the Court for Morocco may, of its own motion, or on the application of any person interested, take or authorise such steps as to the Court seem necessary or expedient for the immediate protection of the person and property of any person appearing to the Court to be of unsound mind, and may from time to time revoke, or vary, or supplement any order or proceeding taken in the matter.

(4.) Subject to the provisions of this article, the Court for Morocco shall not proceed in any such matter except under and according to the directions of the Supreme Court.

80. The Supreme Court for Gibraltar shall have, for and in Morocco, in relation to British subjects and British-protected persons, all such jurisdiction (if any) in matrimonial causes as for the time being the Supreme Court has in Gibraltar.

81.—(1.) The Supreme Court for Gibraltar shall have, for and in Morocco, with respect to the wills and the property in Morocco

of deceased British subjects and British-protected persons, all such jurisdiction in cases of probate or of administration as for the time being the Supreme Court has in Gibraltar.

(2.) But the Court for Morocco shall also have power to grant probate or administration, as regards British subjects and British-protected persons, where there is no contention respecting the right to the grant, and it is proved that the deceased was resident in Morocco at his death.

(3.) Probate or administration granted by the Court for Morocco shall operate on all the property of the deceased in Morocco, and shall effectually discharge persons dealing with an executor or administrator thereunder in respect of that property, notwithstanding that any defect afterwards appears in the grant.

82.—(1.) Where probate, administration, or confirmation is granted in England, Ireland, or Scotland, and therein, or by a memorandum thereon signed by an officer of the Court granting the same, the testator or intestate is stated to have died domiciled in England, Ireland, or Scotland, as the case may be, and the probate, administration, or confirmation is produced to, and a copy thereof is deposited with, the Court for Morocco, the Court shall write thereon a certificate of that production and deposit, and thereupon, notwithstanding anything in this Order, the probate, administration, or confirmation shall, in respect of the personal property in Morocco of the testator or intestate, have the like effect as if he had been resident in Morocco at his death, and probate or administration to his personal property there had been granted by the Court for Morocco.

(2.) Any person who, in reliance on an instrument purporting to be a probate, administration, or confirmation granted in England, Ireland, or Scotland, and to bear such a certificate of the Court for Morocco as in this article prescribed, makes or permits any payment or transfer, in good faith, shall be, by virtue of this Order, indemnified and protected in respect thereof, in Morocco, notwithstanding anything affecting the validity of the probate, administration, or confirmation.

83. Section 51 of The Conveyancing (Scotland) Act, 1874,* and any enactment for the time being in force amending or substituted for the same, are hereby extended to Morocco, with the adaptation following, namely :—

In the said section, the Court for Morocco is hereby substituted for a Court of Probate in a colony.

84.—(1.) Each consular officer shall endeavour to obtain, as early as may be, notice of the death of every British subject, whether resident or not, dying within the consular district, and all such information respecting the affairs of the deceased as may serve to guide the Court with respect to the securing and administration of his property.

(2.) On receiving notice of the death, the consular officer shall put up a notice thereof at the Court-house, and shall keep the

* 37 & 38 Vict. c. 94.

same there until probate or administration is granted ; or, where it appears to him that probate or administration will not be applied for, or cannot be granted, for such time as he thinks fit.

85. Where a British subject or British-protected person resident dies in Morocco intestate, his personal property in Morocco shall be deemed to be vested, until administration is granted, in the Consul-General.

86.—(1.) Where a British subject or British-protected person not resident dies in Morocco, the Court, where the circumstances of the case appear to the Court so to require, shall forthwith on his death, or as soon after as may be, take possession of his personal property in Morocco, or put it under the seal of the Court ; in either case, if the nature of the property or other circumstances so require, making an inventory ; and shall so keep it until it can be dealt with according to law.

(2.) All expenses incurred on behalf of the Court in the execution of this article, with the addition of the like commission as is chargeable in case of administration by an officer of the Court, shall be the first charge on the personal property of the deceased in Morocco ; and the Court shall, by sale of part of that property or otherwise, provide for the discharge of those expenses and commission.

87.—(1.) If a person named executor in the will of a British subject or British-protected person dying in Morocco takes possession of and administers or otherwise deals with any part of the personal property of the deceased in Morocco, and does not obtain probate in Morocco within one month after the death, or within one month after the termination of any proceeding instituted and carried on respecting probate or administration there, he shall be guilty of an offence against this Order.

(2.) If any person, other than a person named executor or than administrator or an officer of the Court, takes possession of and administers or otherwise deals with any part of the personal property in Morocco of a British subject or British-protected person dying in Morocco, he shall be guilty of an offence against this Order.

88.—(1.) Where a British subject or British-protected person dies in Morocco, any other such subject or person having in his possession or under his control any paper of the deceased, being or purporting to be testamentary, shall forthwith bring the original to the Court and deposit it there.

(2.) If any person fails to do so within fourteen days after knowing of the death of the deceased, he shall be guilty of an offence against this Order.

(3.) Where it is proved that any paper of the deceased, being or purporting to be testamentary, is in the possession or under the control of a British subject or British-protected person, the Court may, in a summary way, whether a proceeding respecting probate or administration is pending or not, order him to produce the paper and bring it into Court.

(4.) Where the Court sees ground for believing that any such subject or person knows of the existence of any paper of the deceased,

being or purporting to be testamentary, although it is not proved that the paper is in his possession or under his control, the Court may, in a summary way, whether a proceeding for probate or administration is pending or not, order that he be examined respecting it before the Court or elsewhere, and that he do attend for that purpose, and after examination, may, if it thinks fit, order that he do produce the paper and deposit it in an office of the Court.

89.—(1.) Where a British subject or British-protected person dies in Morocco, a person claiming to be a creditor or legatee, or the next of kin, or one of the next of kin, of the deceased, may apply for and obtain a summons from the Court requiring the executor or administrator (as the case may be) of the deceased to attend before the Court and show cause why an order should not be made for the administration of the property of the deceased under the direction of the Court.

(2.) On proof of service of the summons, or on appearance of the executor or administrator, and on proof of all such other things (if any) as the Court thinks fit, the Court may, if it thinks fit, make an immediate order for such administration.

(3.) The Court shall have full discretionary power to make or refuse or postpone the making of such an order, or to give any special directions respecting the carriage or execution of it; and, in the case of applications for such an order by two or more different persons or classes of persons, to grant the same to such one or more of the claimants, or classes of claimants, as the Court thinks fit.

(4.) If the Court thinks fit, the carriage of the order may subsequently be given to such persons, and on such terms as the Court thinks fit.

(5.) On making such an order, or at any time afterwards, the Court may, if it thinks fit, make any further or other order for compelling the executor or administrator to bring into the office of the Court, for safe custody, all or any part of the money, or securities, or other property of the deceased, from time to time coming to his hands, or otherwise for securing the safe-keeping of the property of the deceased, or any part thereof.

(6.) If the great urgency or other peculiar circumstances of the case appear to the Court so to require, for reasons recorded in the minutes, the Court may of its own motion issue such a summons, and make orders and cause proper proceedings to be taken thereon.

90.—(1.) In a case of apparent intestacy, where the circumstances of the case appear to the Court so to require, for reasons recorded in the minutes, the Court may, if it thinks fit, of its own motion, or otherwise, grant administration to an officer of the Court.

(2.) The officer so appointed shall act under the direction of the Court, and shall be indemnified thereby.

(3.) He shall publish such notices, if any, as the Court thinks fit, in Morocco, Gibraltar, the United Kingdom, and elsewhere.

■(4.) The Court shall require and compel him to file in the proper office of the Court his accounts of his administration at intervals

not exceeding three months, and shall forthwith examine them and report thereon to the Consul-General.

(5.) The accounts shall be audited under the direction of the Consul-General.

(6.) A commission of 5 per cent., or such less amount as the Secretary of State directs, may be charged on an estate administered under this article, and the amount thereof shall be calculated and applied as the Secretary of State directs.

(7.) All expenses incurred on behalf of the Court in the execution of this article and the said commission shall be the first charge on the personal property of the deceased in Morocco ; and the Court shall, by sale of part of that property or otherwise, provide for the discharge of those expenses and the payment of the said commission.

91. Where it appears to the Court that the value of the property or estate of a deceased person does not exceed 100% the Court may, without any probate or letters of administration or other formal proceeding, pay thereout any debts or charges and pay, remit, or deliver any surplus to such persons in such manner as the Secretary of State from time to time directs, and shall not be liable to any action, suit, or proceedings in respect of anything done under this article.

Appeal in Civil Cases.

92.—(1.) Where a civil action in the Court for Morocco involves the amount or value of fifty pounds or upwards, any party aggrieved by any decision of the Court, with or without assessors, in the action shall have the right to appeal to the Supreme Court against the same, on the following conditions, namely :—

(i.) The appellant shall give security to the satisfaction of the Consul-General, and to such amount as the Consul-General thinks reasonable, not exceeding one hundred pounds, for prosecution of the appeal, and for payment of any costs that may be ordered by the Supreme Court on the appeal to be paid by the appellant to any person.

(ii.) The appellant shall pay to the Court for Morocco such sum as the Consul-General thinks reasonable, to defray the expense of the making up and transmission to the Supreme Court of the record.

(2.) In any civil case the Court for Morocco may, if it thinks fit, give leave to appeal on the conditions aforesaid.

(3.) In any civil case the Supreme Court may give leave to appeal on such terms as it thinks fit.

93.—(1.) After three months from the date of a decision of the Court of Morocco, an appeal against it shall not lie except by leave of the Supreme Court.

(2.) After six months from the date of a decision of the Court for Morocco, application for leave to appeal against it shall not be entertained by the Supreme Court.

94.—(1.) Where a person ordered to pay money, or to do any other thing, appeals, the Consul-General shall direct either that

the decision appealed from be carried into execution, or that the execution thereof be suspended pending the appeal, as he thinks fit.

(2.) If the Consul-General directs the decision to be carried into execution, the person in whose favour it is given shall, before the execution of it, give security to the satisfaction of the Consul-General for performance of any order to be made on appeal.

(3.) If the Consul-General directs the execution of the decision to be suspended, the person against whom it is given shall before an order for suspension is made, give security to the satisfaction of the Consul-General for performance of such order as shall be made on appeal.

95.—(1.) The appellant shall file an appeal motion-paper in the Court for Morocco.

(2.) He may at the same time file any argument which he desires to submit to the Supreme Court in support of the appeal.

(3.) The motion-paper and the argument (if any) shall be served on such persons as respondents as the Court for Morocco directs.

96.—(1.) A respondent may, within seven days after service, file in the Court for Morocco a motion-paper of cross appeal (if any) and such argument as he desires to submit to the Supreme Court on the appeal and cross appeal, if any.

(2.) Copies thereof shall be furnished by the Court for Morocco to such persons as the Court thinks fit.

97.—(1.) On the expiration of such seven days the Court for Morocco shall without the application of any party, make up the record of appeal, which shall consist of the writ of summons, statements of claim and defence (if any), orders, and proceedings, all written and documentary evidence admitted or tendered, or a certified copy thereof, and the notes of the oral evidence, the appeal and cross appeal motion-paper, and the arguments (if any).

(2.) The several pieces shall be fastened together, consecutively numbered; and the whole shall be secured by the seal of the Consul-General, and be forthwith forwarded by him to the Supreme Court.

(3.) The Consul-General shall not, except for some special cause, take on himself the responsibility of the charge or of the transmission to the Supreme Court of original letters or documents produced in evidence. They shall be returned to the parties producing them; and they shall produce the originals, if required by the Supreme Court, at or before the hearing of the appeal.

98.—(1.) After the record of appeal is transmitted, until the appeal is disposed of, the Supreme Court shall be in exclusive possession of the whole action, as between the parties to the appeal.

(2.) Every application in the action, as between the parties to the appeal, shall be made to the Supreme Court, and not to the Court for Morocco; but any application may be made through the Court for Morocco.

99.—(1.) The Supreme Court shall, after receiving the record of appeal, fix a day for the hearing of the appeal, and shall give

notice thereof through the Court for Morocco to the parties to the appeal, such a day being fixed as will allow of the parties attending in person or by counsel or solicitor, if they so desire.

(2.) But if all the separate parties to an appeal appear in person at Gibraltar, or appoint persons there to represent them as their counsel or solicitors in the appeal, and cause the appearance or appointment to be notified to the Supreme Court, the Supreme Court may dispose for the appeal without being required to give notice through the Court for Morocco, to the parties to the appeal of the day fixed for hearing thereof.

100. The Supreme Court may, if it thinks fit, require a party to an appeal to appear personally before it on the hearing of the appeal, or on any occasion pending the appeal.

101. It is not open, as of right, to a party to an appeal to adduce new evidence in support of his original case, but a party may allege any material facts that have come to his knowledge after the decision of the Court for Morocco, and the Supreme Court may in any case, if it thinks fit, allow or require new evidence to be adduced.

102.—(1.) The Supreme Court may, from time to time, make any order necessary for determining the real question in controversy in the action, as among the parties to the appeal, and for that purpose may amend any defect or error in the record of appeal, and may enlarge the time for any proceeding except as otherwise by this Order expressly provided.

(2.) The Supreme Court may direct the Court for Morocco to inquire into and certify its finding on any question, as between the parties to the appeal, or any of them, which the Supreme Court thinks fit to determine before final judgment is given in the appeal.

(3.) Generally, the Supreme Court shall, as among the parties to the appeal, have as full jurisdiction over the whole action as if it had been originally instituted and prosecuted in the Supreme Court by parties subject to the original jurisdiction of the Supreme Court.

(4.) The Supreme Court may, if it thinks fit, remit the action to the Court for Morocco, to be reheard, or to be otherwise dealt with as the Supreme Court directs.

(5.) The appeal shall be determined by the Supreme Court according to the law to be administered under this Order by the Court for Morocco.

103.—(1.) The powers of the Supreme Court under this Order may be exercised by the Supreme Court, notwithstanding that the appeal is brought against part only of the decision of the Court for Morocco.

(2.) Those powers may be exercised in favour of all or any of the parties to the action, although they have not appealed from, or complained of, the decision.

104.—(1.) Notwithstanding anything in this Order, an appeal to the Supreme Court shall not lie from an order of the Court for Morocco, made on the application of one party without notice to the other party.

(2.) But, if any person thinks himself aggrieved by such an order, he may, on notice to the other party, apply to the Court for Morocco to vary or discharge the order, and an appeal shall lie from the decision on that application.

105. For purposes of appeal in civil cases to Her Majesty the Queen in Council, a decision of the Supreme Court on appeal under this Order shall have the effect of a decision of that Court under its ordinary primary jurisdiction.

VI.—*Moorish Government, Subjects, and Tribunals ; Foreigners.*

106.—(1.) It being stipulated by Articles XII. and XIII. of the convention (relating to the Right of Protection in Morocco) made between her Majesty the Queen and other Powers, including the Sultan of Morocco, signed at Madrid, the 3rd July, 1880,* as follows :—

“Article XII.—Les étrangers et les protégés propriétaires ou locataires de terrains cultivés, ainsi que les censaux adonnés à l'agriculture paieront l'impôt agricole. Ils remettront chaque année à leur Consul la note exacte de ce qu'ils possèdent en acquittant entre ses mains le montant de l'impôt.

“Celui qui fera une fausse déclaration paiera, à titre d'amende, le double de l'impôt qu'il aurait dû régulièrement verser pour les biens non déclarés. En cas de récidive cette amende sera doublée.

“La nature, le mode, la date, et la quotité de cet impôt seront l'objet d'un règlement spécial entre les Représentants des Puissances et le Ministre des Affaires Étrangères de Sa Majesté Shériffienne.

“Article XIII.—Les étrangers, les protégés, et les censaux propriétaires de bêtes de somme paieront la taxe dite des portes. La quotité et le mode de perception de cette taxe, commune aux étrangers et aux indigènes, seront également l'objet d'un règlement spécial entre les Représentants des Puissances et le Ministre des Affaires Étrangères de Sa Majesté Shériffienne.

“La dite taxe ne pourra être augmentée sans un nouvel accord avec les Représentants des Puissances ;”—

The Court for Morocco shall have and exercise all such jurisdiction, powers, and authorities as may be requisite for recovering and enforcing payment of the said taxes and fines, as if the same were debts due to Her Majesty the Queen, as well as for the effectual execution in all particulars of the said Articles XII. and XIII., and of all regulations from time to time made with the concurrence of Her Majesty's Minister under those articles.

(2.) Where, under any other stipulation of any treaty or convention made or to be made, a British subject in Morocco is liable to pay any anchorage, tonnage, lighterage, import, export, or other duty or charge on vessels or goods, or any annual or other sum as consideration for any right or benefit to be exercised or enjoyed, or any fine for non-payment of any such duty, charge, or sum,

* Printed in full in “Hertslet's Treaties,” Vol. 15, p. 247.

then and in every such case the Court for Morocco shall have and exercise all such jurisdiction, powers, and authorities as may be requisite for recovering and enforcing payment of any such duty, charge, sum, and fine, as if the same were debts due to Her Majesty the Queen, as well as for the effectual execution in all particulars of every such stipulation.

(3.) All proceedings under this article shall be deemed civil proceedings, and shall be instituted only in the name of the Consul-General as plaintiff on behalf of Her Majesty the Queen, and shall be carried on with all practicable speed.

(4.) All money recovered under this article in respect of any tax, duty, charge, sum, or fine, shall be paid over by the Consul-General to the proper Moorish officer, for the use of the Sultan of Morocco, after such deductions as may be agreed on by the Consul-General with the Moorish Government for the expenses incurred in or about the recovery thereof.

107.—(1.) It being stipulated by Article XIII. of the Convention of Commerce and Navigation made between Her Majesty the Queen and the Sultan of Morocco, signed at Tangier, the 9th December, 1856,* as follows :—

“Article XIII.—If a British subject be detected smuggling into the Moroquine territories goods of any description, the goods shall be confiscated to the Sultan ; and such British subject shall, on conviction before the British Consul-General, Consul, Vice-Consul, or Consular Agent, be liable to be fined in an amount not exceeding treble the amount of duties leviable on such goods, or in case of goods not admitted to importation treble the value of the goods at the current price of the day ; and failing payment of such fines, such British subject shall, on conviction before the British Consul-General, Consul, Vice-Consul, or Consular Agent, be liable to be imprisoned ; or, without being fined, any British subject, on conviction as aforesaid, may be imprisoned, but in either case for a time not exceeding one year, in such case as the Consul-General, Consul, Vice-Consul, or Consular Agent may determine.”

The Court for Morocco shall have and exercise all such jurisdiction, powers, and authorities as may be requisite for securing such convictions, and inflicting such punishments as are stipulated for in Article XIII. of the said convention, and for the effectual execution in all particulars of that article.

(2.) Proceedings under this article shall not be taken except with the consent of the Consul-General, and shall be instituted in the name of such person as prosecutor on behalf of Her Majesty the Queen as the Consul-General shall in each case direct.

(3.) All money recovered under this article in respect of a fine shall be paid over by the Consul-General to the proper Moorish officer, for the use of the Sultan of Morocco, after such deductions as may be agreed on by the Consul-General with the Moorish Government for expenses incurred in or about the recovery thereof.

* Printed in “Hertslet's State Papers,” Vol. 46, p. 176.

(4.) The provisions of this article shall apply to any stipulation to the same or the like effect as the said Article XIII. hereafter substituted for that article.

108.—(1.) If a British subject or British-protected person—

- (i.) smuggles, or attempts to smuggle, out of Morocco any goods on exportation whereof a duty is payable to the Sultan of Morocco ;
- (ii.) imports or exports, or attempts to import or export, into or out of Morocco any goods, intending and attempting to evade payment of duty payable thereon to the Sultan of Morocco ;
- (iii.) imports or exports, or attempts to import or export, into or out of Morocco, any goods the importation or exportation whereof into or out of Morocco is prohibited by Moorish law ;
- (iv.) without a proper license, sells or attempts to sell, or offers for sale, in Morocco any goods whereof the Government of Morocco has by Moorish law a monopoly ;

in each of the four cases aforesaid he shall be guilty of a grave offence against this Order.

(2.) Where a person is charged with such an offence as in this article is mentioned, the Court may seize the goods in relation to which the alleged offence was committed, and may hold the same until after the hearing of the charge.

(3.) If a person so charged is convicted, then those goods, whether they have been so seized or not, shall be forfeited to Her Majesty the Queen, and the Court shall either deliver them to the proper Moorish officer, for the use of the Sultan of Morocco, or shall dispose of them otherwise as the Court thinks fit.

109.—(1.) Where by agreement among the Diplomatic or Consular Representatives in Morocco of foreign States, or some of them, in conjunction with the Moorish authorities, sanitary, or police, or port, or game, or other regulations are established, and the same, as far as they affect British subjects and British-protected persons, are approved by the Secretary of State, the Court for Morocco may, subject and according to the provisions of this Order, entertain any complaint made against a British subject or British-protected person, for a breach of those regulations, and may enforce payment of any fine incurred by that subject or person in respect of that breach, in like manner, as nearly as may be, as if that breach were by this Order declared to be an offence against this Order.

(2.) In any such case the fine recovered shall, notwithstanding anything in this Order, be disposed of, and applied, in manner provided by those regulations.

110. If a British subject or British-protected person cuts wood in a forest in Morocco, or on land belonging to the Sultan of Morocco, without permission for that purpose first obtained from the proper

Moorish authority through a consular officer, he shall be guilty of an offence against this Order.

111. If a British subject or British-protected person—

- (i.) publicly derides, mocks, or insults any religion established or observed in Morocco, or the ministers or professors thereof ; or
- (ii.) publicly offers insult to any religious service, feast, or ceremony established or kept there, or to any place of worship, tomb, or sanctuary belonging to any religion established or observed there, or belonging to the ministers or professors thereof ; or
- (iii.) publicly and wilfully commits any act tending to bring any religion so established or observed, or its ceremonies, mode of worship, or observances into hatred, ridicule, or contempt, and thereby to provoke a breach of the public peace ; or
- (iv.) not being a Mussulman, without proper license or lawful excuse, proof of which license or excuse shall lie on him, enters a mosque or Mussulman sanctuary, so as to be likely thereby to provoke a breach of the public peace ;

he shall be guilty of a grave offence against this Order.

112. Any Act which, if done in the United Kingdom or in a British possession, would be an offence against any of the following statutes of the Imperial Parliament or Orders in Council, that is to say :—

The Merchandise Marks Act, 1887 ; *

The Patents, Designs, and Trade Marks Acts, 1883 to 1888 ; †

Any Act, statute, or Order in Council, for the time being in force relating to copyright, or to inventions, designs, or trade-marks ;

Any statute amending or substituted for any of the above-mentioned statutes ;

shall, if done by a British subject in Morocco, be punishable as a grave offence against this Order, whether such act is done in relation to any property or right of a British subject, or of a foreigner, or native, or otherwise, howsoever :—

Provided—

- (1.) That a copy of any such statute or Order in Council shall be published in the public office of the Consulate at Tangier, and shall be there open for inspection by any person at all reasonable times ; and a person shall not be punished under this article for anything done before the expiration of one month after such publication, unless the person offending is proved to have had express notice of the statute or Order in Council.

* 50 & 51 Vict. c. 28.

† 46 & 47 Vict. c. 57 ; 48 & 49 Vict. c. 63 ; 49 & 50 Vict. c. 37 ; 51 & 52 Vict. c. 50.

- (2.) That a prosecution by or on behalf of a prosecutor who is not a British subject shall not be entertained without the consent, in writing, of the Consul-General, who may withhold such consent unless he is satisfied that effectual provision exists for the punishment in Consular or other Courts in Morocco of similar acts committed by the subjects of the State or Power of which such prosecutor is a subject, in relation to, or affecting the interests of, British subjects.

113.—(1.) It being stipulated by Article IX. of the General Treaty between Her Majesty the Queen and the Sultan of Morocco, signed at Tangier, 9th December, 1856,* as follows:—

“All criminal cases and complaints, and all civil differences, disputes, or causes of litigation arising between British subjects and subjects of the Moorish Government shall be adjusted in the following manner:—

“If the plaintiff be a British subject and the defendant a Moorish subject, the Governor of the town or district, or the Kadi, according as the case may appertain to their respective Courts, shall alone judge the case; the British subject making his appeal to the Governor or Kadi through the British Consul-General, Consul, or his deputy, who will have a right to be present in the Court during the whole trial of the case.

“In like manner, if the plaintiff be a Moorish subject and the defendant a British subject, the case shall be referred to the sole judgment and decision of the British Consul-General, Consul, Vice-Consul, or Consular Agent; the plaintiff shall make his appeal through the Moorish authorities, and the Moorish Governor, Kadi, or other officer who may be appointed by them, shall be present, if he or they so desire, during the trial and judgment of the case. Should the British or Moorish litigant be dissatisfied with the decision of the Consul-General, Consul, Vice-Consul, Governor, or Kadi (according as the case may appertain to their respective Courts), he shall have a right of appeal to Her Britannic Majesty's Chargé d'Affaires and Consul-General, or to the Moorish Commissioner for Foreign Affairs, as the case may be;”

The Court of Morocco shall, where the plaintiff is a Moorish subject, have all such jurisdiction, powers, and authorities as may be requisite for the effectual execution in all particulars of the said Article IX.

(2.) The appeal from the Court for Morocco, which lies where the plaintiff is a Moorish subject, as in the said Article IX. provided, shall be heard and determined by the Consul-General, without appeal from him.

114.—(1.) Where a foreigner desires to bring in the Court an

* Printed in “Hertslet's State Papers,” Vol. 46, p. 176.

action against a British subject or British-protected person, or a British subject or British-protected person desires to bring in the Court an action against a foreigner, the Court may entertain the same, and may hear and determine it, and (although the case, if between British subjects, would not be triable, or necessarily triable, with assessors) if all parties desire, or the Court thinks fit to direct, a trial with assessors, then with assessors, but in all other respects according to the ordinary course of the Court.

(2.) Provided that the foreigner, if so required by the Court, first obtains and files in the proper office of the Court the consent in writing of the competent authority (if any) on behalf of his own nation to his submitting, and states that he does submit, to the jurisdiction of the Court, and, if required by the Court, give security to the satisfaction of the Court, and to such reasonable amount as the Court thinks fit, by deposit or otherwise, to pay fees, damages, costs, and expenses, and abide by and perform the decision to be given by the Court, or on appeal.

(3.) A cross action shall not be brought in the Court against a plaintiff, being a foreigner, who has submitted to the jurisdiction, by a defendant, without the leave of the Court first obtained; but the Court may, as a condition of entertaining the foreign plaintiff's action, require his consent to any cross action or matter of set-off being entertained by the Court.

(4.) The Court, before giving leave, may require proof from the defendant that his claim arises out of the matter in dispute, and that there is reasonable ground for it, and that it is not made for vexation or delay.

(5.) Nothing in this article shall prevent the defendant from bringing in the Court against the foreigner, after the termination of the action in which the foreigner is plaintiff, any action that the defendant might have brought in the Court against the foreigner, if no provision restraining cross actions had been inserted in this Order.

(6.) Where a foreigner obtains in the Court an order against a defendant, being a British subject or British-protected person, and in another action that defendant is plaintiff and the foreigner is defendant, the Court may, if it thinks fit, on the application of the British subject or British-protected person, stay the enforcement of the order pending that other action, and may set off any amount ordered to be paid by one party in one action against any amount ordered to be paid by the other party in the other action.

(7.) Where the plaintiff, being a foreigner, obtains an order in the Court against two or more defendants, being British subjects or British-protected persons jointly, and in another action one of them is plaintiff and the foreigner is defendant, the Court may, if it thinks fit, on the application of the British subject or British-protected person, stay the enforcement of the order pending that other action, and may set off any amount ordered to be paid by one party in one action against any amount ordered to be paid by the other party in the other action, without prejudice to the right of the British subject or British-protected person to obtain contribution from his co-defendants under the joint liability.

(8.) Where a foreigner is co-plaintiff in an action with a British subject or British-protected person who is in Morocco, it shall not be necessary for the foreigner to give security under this article as regards fees and costs, unless the Court so directs; but the co-plaintiff British subject or British-protected person shall be responsible for all fees and costs.

115.—(1.) Where it is proved that the attendance of a British subject or British-protected person to give evidence, or for any other purpose connected with the administration of justice, is required in a Court or before a judicial officer of the Government of Morocco, or in a Court or before a judicial officer in Morocco of a foreign State in amity with Her Majesty, the Court for Morocco may, if he thinks fit, in a case and in circumstances in which the Court for Morocco would require the attendance of that subject or person before itself, order that he do attend as required. The order may be made subject to conditions as to payment or tender of expenses or otherwise.

(2.) If the subject or person ordered to attend, having reasonable notice of the time and place at which he is required to attend, fails to attend accordingly, or to give evidence, and does not excuse his failure to the satisfaction of the Court for Morocco, or if, when so attending to give evidence, he wilfully gives false evidence, or refuses to be sworn, he shall, independently of any other liability, be guilty of a grave offence against this order.

(3.) When a British subject, or British-protected person, invokes or submits to the jurisdiction of a Moorish or foreign tribunal in Morocco, and engages in writing to abide by the decision of such Court, or to pay any fees or expenses ordered by such Court to be paid by him, the Court for Morocco may, on such evidence as it thinks fit to require, enforce payment of such fees and expenses in the same manner as if they were fees payable in a proceeding by such person in the Court for Morocco, and shall pay over or account for the same when levied to the proper Moorish or other foreign authority, as the Consul-General may direct.

116. It being stipulated by Article XII. of the said General Treaty as follows :—

If any subject of the Sultan be found guilty before the Kadi of producing false evidence, to the injury or prejudice of a British subject, he shall be severely punished by the Moorish Government according to the Mahommedan law. In like manner, the British Consul-General, Consul, Vice-Consul, or Consular Agent shall take care that any British subject who may be convicted of the same offence against a Moorish subject, shall be severely punished according to the law of Great Britain;

A British subject committing the offence in the said Article XII. mentioned shall be deemed guilty of a grave offence against this Order.

117.—(1.) Every agreement for reference to arbitration between a British subject or a British-protected person, on the one hand, and a Moorish subject, or a foreigner, on the other hand, may, on the application of any party, be filed for execution in the proper office of the Court.

(2.) The Court shall thereupon have authority to enforce the agreement and the award made thereunder, and to control and regulate the proceedings before and after the award, in such manner and on such terms as the Court thinks fit.

(3.) Provided, that the Moorish subject or foreigner, if required by the Court, first obtains and files in the proper office of the Court the consent in writing of the competent authority (if any) on behalf of his own nation to his submitting, and states that he does submit, to the jurisdiction of the Court, and, if required by the Court, gives security to the satisfaction of the Court, and to such reasonable amount as the Court thinks fit, by deposit or otherwise, to pay fees, damages, costs, and expenses, and abide by and perform the award.

VII.—*Uncommissioned Consular Officers.*

118.—(1.) In criminal matters, an uncommissioned consular officer may impose the punishment of a fine not exceeding ten pounds, or of imprisonment, without hard labour, for any time not exceeding one month, but not any other punishment.

(2.) He shall hear and determine every criminal case by summary trial, without assessors.

(3.) In civil matters, an uncommissioned consular officer shall have jurisdiction where the action involves an amount or value not exceeding fifty pounds, but not otherwise, unless with the consent of all parties.

(4.) Any order for payment of a fine or other money, made in a criminal or civil case by an uncommissioned consular officer, may be enforced by execution on the goods of the party against whom the order is to be enforced, and not otherwise.

(5.) In any criminal or civil case pending before an uncommissioned consular officer, his superintending consul may, on the application of any party, or of his own motion, order that the case be sent up to be heard and determined by the superintending consul, and the same shall be so heard and determined.

(6.) An uncommissioned consular officer shall, within seven days after deciding any criminal or civil case, report the same to his superintending consul, and shall, if required by him, send to him a copy of the minutes of proceedings.

(7.) On the application of any party, the superintending consul may revise the proceedings and decision, and, pending that revision, execution of the sentence or order of the uncommissioned consular officer shall be suspended.

(8.) An uncommissioned consular officer shall not have authority, except by special direction of his superintending consul, to hear and determine any criminal or civil matter, or make any

order, under the several foregoing provisions of this Order relating to the following matters :—

Fugitive offenders.
 Offences out of jurisdiction.
 Enforcement of order for payment of money.
 Enforcement of order other than for payment of money.
 Injunctions and orders before action.
 Absconding defendant.
 Removal of property by defendant.
 Arrest of vessel.
 Compensation to defendant.
 Bankruptcy.
 Taxes and other charges on British subjects.
 Smuggling into Morocco.
 Smuggling out and other offences.

(9.) Notwithstanding anything in this article, the Consul-General, with the approval of the Secretary of State, may, with respect to any place where the circumstances appear so to require, exempt an uncommissioned consular officer from any of the restrictions, limitations, or provisions of this article, and authorise him to exercise any jurisdiction under this Order which could be exercised by a commissioned consular officer.

VIII.—*Registration.*

119.—(1.) Every British subject and British-protected person resident, such subject or person being of the age of twenty-one years or upwards, or being married, or a widower, or widow, though under that age, shall, in January in every year, register himself at the Consulate of the consular district within which he is resident.

(2.) Every British subject or British-protected person not, resident arriving at a place in Morocco where there is a consular office, unless borne on the muster-roll of a British ship there arriving, shall within one month after arrival, register himself at the consular office.

(3.) But this provision shall not be deemed to require any person to register himself oftener than once in a year, reckoned from the 1st January.

(4.) The registration of a man shall, nevertheless, comprise the registration of his wife, if living with him ; and

(5.) The registration of the head of a family shall be deemed to comprise the registration of all females, being his relatives, in whatever degree living under the same roof with him at the time of his registration.

(6.) The consular officer shall yearly give to each person registered by him a certificate of registration, signed by him and sealed with his consular seal.

(7.) The name of a wife, if her registration is comprised in her husband's, shall, unless in any case the Consul-General sees good reason to the contrary, be indorsed on the husband's certificate.

(8.) The names and descriptions of females whose registration

is comprised in that of the head of the family shall, unless in any case the Consul-General sees good reason to the contrary, be indorsed on the certificate of the head of the family.

(9.) In the case of a British-protected person, the date of issue and the duration of the certificate shall be indorsed in Arabic on the certificate.

(10.) Every person shall, on every registration of himself, pay a fee of two shillings and sixpence, or such amount as the Secretary of State from time to time appoints.

(11.) The amount of the fee may be uniform for all persons, or may vary according to the position and circumstances of different classes, if the Secretary of State from time to time so directs, but may not in any case exceed five shillings.

(12.) Every person by this Order required to register himself or herself shall, unless excused by the consular officer, attend personally for that purpose at the Consulate, on each occasion of registration.

(13.) If any person fails to comply with the provisions of this Order respecting registration, and does not excuse his or her failure to the satisfaction of the consular officer, he or she shall be guilty of an offence against this Order, and any Court or authority may, if it thinks fit, decline to recognise him as a British subject.

IX.—*Assessors.*

120.—(1.) Where a criminal charge or a civil action is triable with assessors, there shall ordinarily be two assessors. Every assessor shall, unless the Court otherwise directs, be sworn in such form as any rules to be made under this Order may prescribe for the due and impartial performance of his duties.

(2.) Where, however, by reason of local circumstances, the Court is able to obtain the presence of one assessor only, it may, if it thinks fit, sit with one assessor only.

(3.) Where, for a like reason, the Court is not able to obtain the presence of any assessor, it may, if it thinks fit, sit without an assessor.

(4.) In every such case the reason shall be recorded in the minutes.

(5.) The summons to a person to attend to act as assessor shall be in writing, and shall require the attendance of the person therein named to act as assessor at the time and place therein specified.

(6.) The summons shall be served on him by being delivered to him personally, unless he is at the time of service absent from his usual place of abode, and then it may be left for him there with some adult inmate.

(7.) The Court may, on reasonable cause shown, excuse from attendance, generally or in any particular case, any person summoned or liable to be summoned to act as assessor.

(8.) The Court may, if it thinks fit, on or without an application or suggestion by the accused, or by any party to an action, discharge from attendance, in any particular case, any person summoned to act as assessor.

(9.) If in the course of a trial an assessor is, by sufficient cause, prevented from continuing to serve, the trial shall proceed, with the aid of the other assessor (if any).

(10.) If in any case the sole assessor is, or all the assessors are, prevented from continuing to serve, the proceeding may, in the discretion of the Court, be stayed, and a new trial may be held, with another assessor or other assessors.

(11.) If any person summoned to act as assessor fails, without lawful excuse, to attend at the trial, or at any adjournment thereof, or to continue to serve throughout the trial, he shall be liable under a summary order of the Court to a fine not exceeding five pounds, to be levied by attachment and sale of his goods within the district, and in default of recovery thereby of the fine, to be imprisoned as a civil prisoner for any time not exceeding three days, if the fine is not sooner paid.

X.—Arbitration.

121.—(1.) The Court may, with consent of the parties, refer to arbitration the final determination of any action pending, or of any matters in difference between the parties, on such terms and with such discretions as to appointment of an arbitrator and other things as the Court thinks fit, with or without security from the parties, or any of them, that they will abide by the result of the reference.

(2.) In any such case the award shall be final and conclusive.

(3.) On the application of any party a decree of the Court may be entered in conformity with the award, and the decree shall not be open to appeal or rehearing.

122.—(1.) Every agreement for reference to arbitration between or by British subjects or British-protected persons may, on the application of any party, be filed for execution in the proper office of the Court.

(2.) The Court shall thereupon have authority to enforce the agreement and the award made thereunder, and to control and regulate the proceedings before and after the award, in such manner and on such terms as the Court thinks fit.

XI.—Reconciliation.

123. The Court may promote reconciliation and encourage and facilitate the settlement in an amicable way of proceedings taken for assault or for any other offence not amounting to felony and being of a private or personal character, on terms of payment of compensation or other terms approved by the Court, and may thereupon order the proceedings to be stayed.

XII.—Procedure, Criminal and Civil.

124. It shall be lawful for the Consul-General and the Chief Justice of the Supreme Court from time to time to make rules and forms of procedure as to all civil and criminal matters, subject to the approval of the Secretary of State.

Until such rules and forms have been made, or in relation to matters to which they do not extend, a Court may adopt and use any procedure or forms heretofore in use in the Consular Courts in Morocco, or any regulations or rules made thereunder and in force immediately before the commencement of this Order, or as are for the time being in use in the Supreme Court of Gibraltar, with any modifications or adaptations which may be necessary.

No proceeding shall be invalidated by any informality, mistake, or omission, so long as, in the opinion of any Court before which any question arises, the essential requisites of law and justice have been complied with.

Provision may, amongst other things, be made by rules under this article authorising the Court to grant and enforce search warrants, and to enforce awards, and to enforce by distress, or by attachment or commitment, judgments or orders of the Court, or payment of any damages, costs, penalties, fines, or forfeitures, and for the sale of things forfeited, and for garnishee process, and for attachments of property in order to compel appearance or submission to the jurisdiction or process of the Court, and authorising the Court to compel, by fine, distress, or recognisance, or in default of security by commitment, the attendance of witnesses before the Court, or before a Colonial or other Court to which a case is sent for trial, and to prescribe and enforce the fees to be taken in respect of any proceedings under this Order, not exceeding, as regards any matters provided for by the Act 6 Geo. IV. c. 87,* fees fixed and allowed from time to time by any Order in Council made under that Act, and to take and transmit depositions of witnesses for use at trials in a colony or in England, and to prescribe forms of indictment or charge in criminal proceedings. Provided that the scales of all fees prescribed under the provisions of this Order shall have been sanctioned by the Commissioners of Her Majesty's Treasury.

125. Summonses, orders, and other instruments issuing from the Court, shall be sealed with the seal of the Court and signed by the Judge or proper officer of the Court.

126.—(1.) In every case, criminal or civil, minutes of the proceeding shall be drawn up, and shall be signed by the officer holding the Court, and shall, where the case is heard with assessors, be open for their inspection, and for their signature if concurred in by them.

(2.) The minutes, with the depositions of witnesses, and the notes of evidence taken by the Court at the trial or hearing, shall be preserved in an office of the Court.

127.—(1.) In any case, criminal or civil, and at any stage thereof, the Court either of its own motion or on the application of any party, may summon a British subject or British-protected person to attend to give evidence, or to produce documents, or to be examined.

* Now repealed (except sections 10–15 in part) by the Consular Salaries and Fees Act, 1891 (54 & 55 Vict. c. 36). See Order in Council under that Act dated August 10, 1892, and printed under the title "Consul, British."

(2.) If the person summoned, having reasonable notice of the time and place at which he is required to attend, and his reasonable expenses having been paid or tendered, fails to attend and be sworn, and give evidence, or produce documents, or submit to examination accordingly, and does not excuse his failure to the satisfaction of the Court, he shall be guilty of an offence against this Order.

(3.) A person punished under this article shall not be liable to an action in respect of the same matter; and any such action, if begun, shall be stayed by the Court in such a manner and on such terms as the Court thinks fit.

128.—(1.) In a criminal case where it is proved that a British subject or British-protected person is likely to give material evidence, either for the prosecution or for the defence, and that he will not voluntarily attend to give evidence, the Court may issue a summons for his attendance.

(2.) If he does not obey the summons and does not excuse his failure to the satisfaction of the Court, then after proof of service of the summons, the Court may issue a warrant to compel his attendance.

(3.) Where it is proved that he will not attend to give evidence unless compelled to do so, the Court, instead of issuing a summons, may issue a warrant in the first instance.

(4.) If, on his appearance, either in obedience to a summons, or on being brought up under a warrant, he refuses to take an oath, or, having taken an oath, to answer any question put to him, and does not excuse his refusal to the satisfaction of the Court, he shall be guilty of an offence against this Order, or he shall be liable to be forthwith committed to prison, for not more than seven days.

129. The following Acts, namely:—

The Foreign Tribunals Evidence Act, 1856.*

The Evidence by Commission Act, 1859.†

The Evidence by Commission Act, 1885,‡ or so much thereof as is for the time being in force, and any enactment for the time being in force amending or substituted for the same, are hereby extended to Morocco, with the adaptations following, namely:—

In the said Acts the Court is hereby substituted for a Supreme Court in a colony.

130. The following Acts, namely:—

The British Law Ascertainment Act, 1859,§

The Foreign Law Ascertainment Act, 1861.||

or so much thereof as is for the time being in force, and any enactment for the time being in force amending or substituted for the same, are hereby extended to Morocco, with the adaptations following, namely:—

In the said Acts the Court is hereby substituted for a Superior Court in a Colony.

* 19 & 20 Vict. c. 113.

§ 22 & 23 Vict. c. 63.

† 22 Vict. c. 20.

‡ 48 & 49 Vict. c. 74.

|| 24 & 25 Vict. c. 11.

131.—(1.) Where, under this Order, a person is to be sent or removed or deported from Morocco, and the Order is made or confirmed by the Consul-General, he shall be detained in custody until a fit opportunity for his removal or deportation occurs, and he shall then be put on board one of Her Majesty's vessels of war, or, if none is available, then on board some British or other fit vessel.

(2.) A warrant of the Consul-General under his hand and seal shall be sufficient authority to the person to whom it is directed or delivered for execution, and to the commander or master of the vessel, to receive and detain the person therein named, and to remove and carry him to the place therein named, according to the warrant or order.

(3.) In case of removal for any purpose except deportation the warrant of the Consul-General shall be issued in duplicate, and the person executing it shall, on arrival at the place therein named, deliver the person therein named, with one of the duplicates of the warrant, into the custody of a constable or proper officer of police or keeper of a prison there, who shall keep the person so delivered in safe custody, to be produced on the order of the proper Court or authority there, and to be otherwise dealt with according to law.

XIII.—*Miscellaneous.*

132. The Court may, in any case, if it thinks fit, on account of the poverty of a party, or for any other reason, provisionally dispense with the payment of any fee in whole or in part.

Payment of fees payable under any rules to be made in pursuance of this Order, and of costs, and of charges and expenses of witnesses, prosecutions, punishments, and deportations, and of other charges and expenses, and of fines, respectively payable under this Order, may be enforced under order of the Court by seizure and sale of goods, and in default of sufficient goods by imprisonment as a civil prisoner for a term not exceeding one month.

Any bill of sale or mortgage or transfer of property made with a view of avoiding seizure or sale of goods or ship under any provision of this Order, shall not be effectual to defeat the provisions of this Order.

Except as in this Order otherwise provided, all fees received and fines recovered under this Order shall be carried to the public account, and shall be accounted for and paid as the Secretary of State, with the concurrence of the Commissioners of Her Majesty's Treasury, from time to time directs.

133.—(1.) If an officer of the Court employed to execute an order loses by neglect or omission the opportunity of executing it, then, on complaint of the person aggrieved, and proof of the fact alleged, the Court may, if it thinks fit, order the officer to pay the damages sustained by the person complaining, or part thereof.

(2.) The order shall be enforced as an order directing payment of money.

134.—(1.) If a clerk or officer of the Court, acting under pretence of the process or authority of the Court, is charged with extortion, or with not paying over money duly levied, or with other misconduct, the Court, if it thinks fit, may inquire into the charge in a summary way, and may for that purpose summon and enforce the attendance of all necessary persons, as in an action, and may make such order for the repayment of any money extorted, or for the payment over of any money levied, and for the payment of such damages and costs, as the Court thinks fit.

(2.) The Court may also, if it thinks fit, on the same inquiry, impose on the clerk or officer such fine, not exceeding five pounds for each offence, as the Court thinks fit.

(3.) A clerk or officer punished under this article shall not be liable to an action in respect of the same matter; and any such action, if begun, shall be stayed by the Court in such manner and on such terms as the Court thinks fit.

135.—(1.) If any person subject to the criminal jurisdiction of a Court does any of the following things, namely:—

- (i.) Wilfully by act or threat obstructs an officer of, or person executing any process of, the Court in the performance of his duty; or
- (ii.) Within or close to the room or place where the Court is sitting, wilfully misbehaves in a violent, threatening, or disrespectful manner, to the disturbance of the Court, or to the intimidation of suitors or others resorting thereto; or
- (iii.) Wilfully insults any member of the Court, or any assessor, or any person acting as a clerk or officer of the Court, during his sitting or attendance in Court, or in his going to or returning from Court; or
- (iv.) Does any act in relation to the Court or a judge thereof, or a matter pending therein, which, if done in relation to a Superior Court in England, would be punishable as a contempt of such Court, or as a libel on such Court or the Judges thereof, or the administration of justice therein;

he shall be liable to be apprehended by order of the Court with or without warrant, and on inquiry and consideration, and after the hearing of any defence which such person may offer, without further process or trial, to be punished with a fine not exceeding ten pounds, or with imprisonment not exceeding twenty-four hours, in the discretion of the Court.

A minute shall be made and kept of every such case of punishment, recording the facts of the offence, and the extent of the punishment; and a copy of the minute shall be forthwith sent to the Consul-General.

Provided that if the Court thinks fit, instead of proceeding under the preceding provisions, it may direct or cause the offender to be tried in a separate criminal prosecution or proceeding in which the offender shall be liable to be tried and punished for his offence as a grave offence against this Order.

Nothing herein shall interfere with the power of the Court to remove or exclude persons who interrupt or obstruct the proceedings of the Court.

136. Every person subject to the criminal jurisdiction of the Court who prints, publishes, or offers for sale any printed or written newspaper or other publication containing matter calculated to excite tumult or disorder, or to excite enmity between Her Majesty's subjects and the Government of Morocco, or of any part thereof, or between that Government and its subjects, shall be guilty of an offence against this Order, and may, in addition to or in lieu of any other punishment, be ordered to give security for good behaviour ; and in default thereof, or on a further conviction for the like offence, he may be ordered to be deported.

An offence against this article shall not be tried except by the Consul-General.

137.—(1.) The repeal of the Orders in Council repealed by this Order, or any other thing in this Order, shall not—

- (i.) Affect the past operation of those Orders, or either of them, or any appointment made, or any right, title, obligation, or liability accrued, or the validity or invalidity of anything done or suffered under either of those Orders, before the making of this Order.
- (ii.) Interfere with the institution or prosecution of any proceeding or action, criminal or civil, in respect of any offence committed against, or forfeiture incurred or liability accrued under or in consequence of any provision of, either of those Orders, or any regulation made thereunder.
- (iii.) Take away or abridge any protection or benefit given or to be enjoyed in relation thereto.

(2.) Notwithstanding the repeal of the Orders aforesaid, or any other thing in this Order, every regulation, appointment, and other thing in this article mentioned shall continue and be as if this Order had not been made ; but so that the same may be revoked, altered, or otherwise dealt with under this Order, as if it had been made or done under this Order.

138. Criminal or civil proceedings begun under either of the Orders in Council, repealed by this Order, and pending at the time when this Order comes into operation in Morocco, shall, from and after that time, be regulated by the provisions of this Order, as far as the nature and circumstances of each case admit.

139. Nothing in this Order shall deprive the Consul-General or consular officers of the right to observe, and to enforce the observance of, or shall deprive any person of the benefit of any reasonable custom existing in Morocco, unless this Order contains some express and specific provision incompatible with the observance thereof.

140. Nothing in this Order shall prevent the Consul-General

or any consular officer in Morocco from doing anything which Her Majesty's Consuls in the dominions of any other State in amity with Her Majesty are, for the time being, by law, usage, or sufferance entitled or enabled to do.

141. In any case in which, under this Order, any jurisdiction or judicial function, whether original or appellate, is to be or may be exercised or performed by the Consul-General, he shall for that purpose have all the powers which the Court for Morocco has in relation to any cause, matter, or proceeding, and, unless otherwise expressly provided by this Order, there shall be no appeal from his determination except to Her Majesty in Council, and then only by special leave of Her Majesty in Council.

142. Whenever an acting Consul-General or acting consular officer has commenced the hearing of any cause or matter, civil or criminal, he may, unless the Consul-General otherwise directs, continue and complete the hearing and determination thereof, notwithstanding that his authority to act as Consul-General or as such consular officer has otherwise ceased by reason of the expiration of the time for which he was appointed to act, or by reason of the happening of any event by which his authority is determined.

143. The Consul-General, under this Order, shall have power to make and alter regulations (to be called Queen's Regulations) for the following purposes (that is to say) :—

- (1.) For securing the observance of any treaty for the time being in force relating to any place to which this Order applies, or of any native or local law or custom, whether relating to trade, commerce, revenue, or any other matter.
- (2.) For the peace, order, and good government of British subjects or British-protected persons (so far as subject to this Order) within any such place in relation to matters not provided for by this Order.
- (3.) For requiring returns to be made of the nature, quantity, and value of articles exported from or imported into his district, or any part thereof, by or on account of any British subject or British-protected person who is subject to this Order, or in any British ship, and for prescribing the times and manner at or in which, and the persons by whom such returns are to be made.
- (4.) For the governance, visitation, care, and superintendence of prisons.

Any regulations made under this article may provide for forfeiture of any goods, receptacles, or things in relation to which, or to the contents of which, any breach is committed of such regulations, or of any treaty or any native or local law or custom the observance of which is provided for by such regulations.

Any regulations made under this article shall, when allowed by the Secretary of State, and published as he directs, have effect as if contained in this Order.

144. Where by virtue of this Order or otherwise, any Imperial Act, or any law in force in a British possession, colony, or settlement, is applicable in any place within the limits of this Order, such Act or law shall be deemed applicable so far only as the constitution and jurisdiction of the Courts acting under this Order and the local circumstances permit, and for the purpose of facilitating the application of any such Act or law, it may be construed with such alterations and adaptations not affecting the substance as may be necessary, and anything by such Act or law required to be done by or to any Court, Judge, officer, or authority may be done by or to a Court, Judge, officer, or authority having the like or analogous functions, or by or to any officer designated by the Court for that purpose, and the seal of the Court may be substituted for any seal required by any such Act or law ; and in case any difficulty occurs in the application of any such Act or law it shall be lawful for the Secretary of State to direct by and to whom, and in what manner, anything to be done under such Act or law is to be done, and such Act or law shall, in its application to matters arising within the limits of this Order, be construed accordingly.

145. Not later than 31st March in each year, the Consul-General shall send to the Secretary of State a report on the operation of this Order up to 31st January in that year, showing for the then last twelve months the number and nature of the proceedings, criminal and civil, taken in the Court for Morocco, and the result thereof, and the number and amount of fees received, and containing an abstract of the registration list, and such other information, and being in such form, as the Secretary of State from time to time directs.

146.—(1.) A printed copy of this Order shall be always kept exhibited in a conspicuous place in each consular office and in each Court-house.

(2.) Printed copies shall be sold in Morocco at such reasonable price as the Consul-General from time to time directs.

147. Judicial notice shall be taken of this Order, and of the commencement thereof, and of the appointment of Consuls, and of the constitution and limits of the Courts and districts, and of consular seals and signatures, and of any rules and regulations made or in force under this Order, and no proof shall be required of any of such matters.

The provisions of the Evidence Act, 1851 (14 & 15 Vict. c. 99, ss. 7 and 11), relating to the proof of judicial and other documents, shall extend and be applied for all purposes as if the Courts, districts, and places to which this Order applies were in a British colony.

And the Most Honourable the Marquess of Salisbury, and the Right Honourable Lord Knutsford, two of Her Majesty's Principal Secretaries of State, the Lords Commissioners of the Treasury, and the Lords Commissioners of the Admiralty are to give the necessary directions herein as to them may respectively appertain.

C. L. Peel.

7. Muscat.

ORDER IN COUNCIL FOR THE REGULATION OF BRITISH JURISDICTION IN THE DOMINIONS OF THE SULTAN OF MUSCAT.

At the Court at Windsor, the 4th day of November, 1867.

PRESENT :

The Queen's Most Excellent Majesty in Council.

Whereas by an Act of Parliament made and passed in the session of Parliament holden on the 6th and 7th years of Her Majesty's reign,* intituled "An Act to remove doubts as to the exercise of power and jurisdiction by Her Majesty within divers countries and places out of Her Majesty's dominions, and to render the same more effectual," it is, amongst other things, enacted that it is and shall be lawful for Her Majesty to hold, exercise, and enjoy any power or jurisdiction which Her Majesty now hath, or may at any time hereafter have, within any country or place out of Her Majesty's dominions in the same and as ample a manner as if Her Majesty had acquired such power or jurisdiction by the cession or conquest of territory ;

And whereas Her Majesty hath power and jurisdiction in the dominions of His Majesty the Sultan of Muscat and its dependencies :

And whereas it is expedient to make provision for the due and effectual exercise of such power and jurisdiction :

1. Now, therefore, in pursuance and by virtue of the said recited Act of Parliament, Her Majesty is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, that Her Majesty's Consuls appointed to reside in the dominions of the Sultan of Muscat shall have full power and authority to carry into effect, and to enforce by the means and in the manner herein-after mentioned and provided, the observance of the stipulations of any treaty or convention, or of any regulations appended to any treaty or convention now existing, or which may hereafter be made between Her Majesty, Her heirs and successors, and the Sultan of Muscat, His heirs and successors ; and to make and to enforce, by fine or imprisonment or both, rules and regulations for the observance of the stipulations of any such treaty or convention, and for the peace, order, and good government of Her Majesty's subjects being within the dominions of the Sultan of Muscat, His heirs and successors.

2. And it is further ordered, that a copy of all such rules and regulations made by the said Consul shall forthwith be affixed, and kept affixed and exhibited, in some conspicuous place in the public office of the said Consul, and that printed copies of the said rules and regulations shall, as soon as possible, be provided by

* The Foreign Jurisdiction Act, 1843 (6 & 7 Vict. c. 94) ; now repealed and consolidated with other Acts by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

the said Consul, and sold at a price not exceeding one dollar for each copy ; and for the purpose of convicting any person offending against the said rules and regulations, and for all other purposes of law whatsoever, a printed copy of the said rules and regulations, certified under the hand of the said Consul to be a true copy thereof, shall be taken as conclusive evidence of such rules and regulations, and all things therein respectively contained ; and no penalty shall be incurred or shall be enforced for the breach of any such rules and regulations to be hereafter made, until the same shall have been so affixed and exhibited for one calendar month in the public office of the Consul : Provided always, that any such rule or regulation made by Her Majesty's Consul, and to be enforced by a penalty, shall, before the first day on which the same shall be so affixed or exhibited, be transmitted to Her Majesty's Principal Secretary of State for Foreign Affairs for allowance or disallowance ; and if any such rule and regulation shall be disallowed by Her Majesty's Principal Secretary of State for Foreign Affairs, the same shall cease to have effect from the receipt by the Consul of such disallowance ; nevertheless, the Consul shall not be liable to be proceeded against in any of Her Majesty's Courts in regard to any act done by him under such rule or regulation previously to the receipt of its disallowance by such Consul.

3. And it is further ordered, that it shall be lawful for Her Majesty's Consul as aforesaid, upon information or upon the complaint of any person that a British subject has violated any of the stipulations of any treaty or convention, or of any regulations appended to any treaty or convention, between Her Majesty and the Sultan of Muscat, or has disregarded or infringed any of the rules or regulations for the observance of the stipulations of any such treaty or convention, affixed and exhibited according to the provisions of the next preceding article of this Order, to summon before him the accused person, and to receive evidence and to examine witnesses on oath as to the guilt or innocence of such person in regard to the offence laid to his charge, and to award such penalty or fine or imprisonment against any person convicted of an offence against any such treaty or convention, or appended regulations, or against the said Rules and regulations, as may be specified therein respectively ; and any charge against a British subject for a breach of any such treaty or convention, or appended regulations, or for a breach of such rules and regulations for the observance of any such treaty, shall be heard and determined by the Consul without assessors : Provided always, that in no case shall the penalty to be incurred by a breach of such rules and regulations exceed 500 dollars or three calendar months' imprisonment.

4. And it is further ordered, that any charge against a British subject for a breach of rules and regulations other than those relating to the observance of treaties shall, in like manner, be heard and determined by Her Majesty's Consul ; and in all cases in which the penalty shall not exceed 200 dollars, or one calendar

month's imprisonment, the Consul shall hear and determine the charge summarily without the aid of assessors; but where a penalty attached to a breach of the rules and regulations other than those relating to the observance of treaties shall amount to more than 200 dollars, or to imprisonment for more than one calendar month, the Consul, before he shall proceed to hear the charge, shall summon two disinterested British subjects of good repute to sit with him as assessors, which assessors, however, shall have no authority to decide on the innocence or guilt of the person charged, or on the amount of fine or imprisonment to be awarded to him on conviction, but it shall rest with the Consul to decide on the guilt or innocence of the person charged, and on the amount of fine or imprisonment to be awarded to him: Provided always, that in no case shall the penalty to be attached to a breach of rules and regulations other than those for the observance of treaties exceed 500 dollars or three calendar months' imprisonment; and provided further, that, in the event of the said assessors or either of them dissenting from the conviction of the party charged, or from the penalty of fine or imprisonment awarded to him by the Consul, the Consul shall take a note of such dissent, with the ground thereof, and shall require good and sufficient security for the appearance of the person convicted at a future time, in order to undergo his sentence or receive his discharge; and in default of such security being given, it shall be lawful for the Consul to cause the person to be detained in custody until such security is given.

5. And it is further ordered, that if any person who shall have committed or been charged with any breach of or offence against any such treaty or convention or any such rules and regulations as aforesaid, shall escape or remove from the consular district within which the fact was committed, and shall be found within another consular district, it shall be lawful for the Consul within which district such person shall be so found to proceed against him in the same manner as if the fact had been committed within such district.

6. And it is further ordered, that all suits, disputes, differences, and causes of litigation of a civil nature arising between British subjects within the dominions of the Sultan of Muscat, shall be heard and determined by Her Majesty's Consul, who shall be the sole judge and arbitrator thereof respectively; subject nevertheless to an appeal against the decision of the Consul therein to the High Court of Bombay, in cases where the sum or matter at issue is of the amount or value of 200 dollars or upwards: Provided always, that the party intending so to appeal against the decision of the said Consul shall, within fifteen days after the determination of the case by the Consul, by himself or his agent, give to the Consul notice in writing of his appeal to the said High Court of Bombay; whereupon the Consul shall, as speedily as possible, transmit to the said High Court all the documents which were produced before him in the case, and none other, together with a statement of the evidence taken before him in the case, and of the grounds on which

his decision was formed, and shall forthwith notify to the several parties the transmission of the said proceedings to the said High Court : Provided also, that it shall be lawful for the Consul to require from any person so appealing to the said High Court reasonable security, to consist in part of one or two sufficient sureties, to be approved by the Consul, that such person so applying will duly prosecute his appeal, and will abide by the decision to be given therein by the said High Court, and that in case such appeal shall fail, he will answer and satisfy all costs, loss, and damages sustained by the other party by reason of such appeal.

7. And it is further ordered, that it shall be lawful for Her Majesty's Consul to summon not less than two, and not more than four, disinterested British subjects, of good repute, to sit with him as assessors at the hearing of any suit, dispute, difference, or cause of litigation whatever, of a civil nature, brought before him for decision, and in case the sum sought to be recovered shall exceed 500 dollars such suit shall not be heard by the Consul without assessors, if within a reasonable time such assessors can be procured ; but the assessors aforesaid shall have no authority to decide on the merits of such suit, but in the event of such assessors, or any of them, dissenting from the decision of the Consul, the Consul shall enter the fact of such dissent and the grounds thereof in the minutes of the proceedings, and in case of appeal shall transmit the same to the High Court of Bombay, together with the documents relating to the suit.

8. And it is further ordered, that it shall be lawful for Her Majesty's Consul to enforce his decision in favour of or against a British subject in a civil suit, dispute, difference, or cause of litigation, by distress and sale, or imprisonment, in like manner as a decision of the High Court of Bombay in a civil suit is enforced within the same.

9. And it is further ordered, that in case of an appeal to the High Court of Bombay from the decision of Her Majesty's Consul, it shall be lawful for the said High Court, upon such terms as to costs and otherwise as it shall think proper, to admit any further legal evidence besides that adduced before the Consul, on its being established to the satisfaction of the said High Court, by oath or affidavit, that the party desiring to produce such further evidence was ignorant of the existence of such evidence, or was taken by surprise at the hearing before the Consul, or was unable to produce it before the Consul after due and reasonable diligence and exertion on his part, or where under the circumstances of the case, it shall appear to the said High Court that further evidence ought to be received.

10. And it is further ordered, that Her Majesty's Consul shall have power, in any civil suit, dispute, difference, or cause of litigation, to examine on oath, or in such form and with such ceremonies as the witness may declare to be binding on his conscience, any witness who may appear before him, and shall have power, on the application of any party in such suit, to issue a compulsory

order for the attendance of any person being a British subject who may be competent to give evidence in such suit; and any British subject who shall have been duly served with any such compulsory order, and with a reasonable notice of the day of hearing of such suit, and upon his expenses of appearing as a witness having been paid or tendered to him by the party at whose application he shall have been ordered to attend, shall, on his wilful default to appear as a witness at the hearing of such suit, be punished with a fine not exceeding 100 dollars, or with imprisonment for a period not exceeding thirty days, at the discretion of the said Consul.

11. Every witness, being a British subject, so examined on oath, whether before the Consul or before a Kadi or other officer of the Muscat Government, duly authorised to act judicially, who shall in any such examination give wilfully false testimony, may be convicted of and punished for the crime of wilful and corrupt perjury.

12. And it is further ordered, that it shall be lawful for Her Majesty's Consul to promote the settlement of any civil suit, dispute, difference, or cause of litigation, by amicable agreement between the parties; and, with the consent of the several parties, to refer the decision of a suit or contention to one or more arbitrators, and to take security from the parties that they will be bound by the result of such arbitration; and the award of such arbitrator or arbitrators shall be, to all intents and purposes, deemed and taken to be a judgment or sentence of Her Majesty's Consul in such civil suit, dispute, difference, or cause of litigation, and shall be entered and recorded as such, and shall have the like effect and operation, and shall be enforced accordingly, and shall be final and conclusive to all intents and purposes, and shall not be open to appeal, unless the same shall, within a reasonable time, have been ordered by the Consul to be set aside, on the ground that it is not final, or is defective, or that the arbitrator or arbitrators have exceeded their authority, or have been guilty of misconduct in the matter.

13. And it is further ordered, that it shall be lawful for Her Majesty's Consul to cause to be apprehended and brought before him, any British subject who may be charged with having committed any crime or offence within the dominions of the Sultan of Muscat; and such Consul shall thereupon proceed with all convenient speed to inquire of the same, and for such purpose shall have power to examine on oath, or in such form and with such ceremony as the witness shall declare to be binding on his conscience, any witness who may appear before him to prove the charge; and also shall have power to compel any person, being a British subject, who may be competent to give evidence as to the guilt or innocence of the party so charged, to appear and give evidence, and to punish the wilful default of any such person to appear and give evidence, after reasonable notice of the day of the hearing of such charge, by fine or imprisonment, in like manner

as is provided in Article 10 of this Order, and shall examine every such witness in the presence and hearing of the party accused, and shall afford the party accused all reasonable facility for cross-examining such witness, and shall cause the deposition of every such witness to be reduced to writing, and the same to be read over, and, if necessary, explain to the party accused, together with any other evidence that may have been urged against him during the course of the inquiry, and shall require such accused party to defend himself against the charge brought against him, and, if necessary, advise him of the legal effect of any voluntary confession, and shall take the evidence of any witness whom the accused party may tender to be examined in his defence ; and every witness being a British subject so examined as aforesaid who shall upon any such occasion give wilfully false testimony, may be convicted of and punished for the crime of wilful and corrupt perjury ; and when the case has been fully inquired into, and the innocence or guilt of the person accused has been established to the satisfaction of the Consul, the Consul, as the case may be, shall either discharge the party accused from custody, if satisfied of his innocence, or proceed to pass sentence on him, if satisfied of his guilt ; and it shall be lawful for the Consul, having inquired of, tried, and determined, in the manner aforesaid, any charge which may be brought before him, to award to the party convicted any amount of punishment not exceeding imprisonment for one calendar month, or a fine of 200 dollars.

14. And it is further ordered that if the crime or offence whereof any person being a British subject may be accused before Her Majesty's Consul as aforesaid, shall appear to such Consul to be of such a nature as, if proved, would not be adequately punished by the infliction of such punishment as aforesaid, it shall be lawful for such Consul to summon not less than two, or not more than four, disinterested British subjects of good repute to sit with him as assessors for inquiring of, trying, and determining the charges against such person ; and the Consul, when he shall try any such charge with the assistance of assessors as aforesaid, shall, if he is himself convinced of the guilt of the party accused, have power to award any amount of punishment not exceeding imprisonment for twelve calendar months, or a fine of 1000 dollars ; and the assessors aforesaid shall have no authority to decide on the innocence or guilt of the party accused, or on the amount of punishment to be awarded to him on conviction, but in the event of the said assessors, or any of them, dissenting from the conviction of or from the amount of punishment awarded to the accused party, the assessors or assessor so dissenting shall be authorised to record in the minutes of the proceedings the grounds on which they or he may so dissent, and the Consul shall forthwith report to the High Court of Bombay the fact of such dissent and of its having been so recorded in the minutes of the proceedings, and shall, as soon as possible, lay before the said Court copies of the whole of the depositions and proceedings, with the dissent of the assessor or assessors recorded therein, and it shall be lawful thereupon

for the Court, by warrant under seal addressed to the Consul, to confirm, or vary, or remit altogether, as to the Court may seem fit, the sentence and punishment awarded to the party accused, and such Consul shall give immediate effect to the injunction of any such warrant: Provided always, that in any case in which the assessor or assessors shall dissent from the conviction of or from the amount of punishment awarded to the accused party, it shall be lawful for Her Majesty's Consul to take good and sufficient bail from the accused party to appear and undergo the punishment awarded to him, provided the same or any portion thereof be confirmed by the Court, which punishment so confirmed shall commence and take effect from the day on which the decision of the Court shall be notified to the party accused.

15. And in order more effectually to repress crimes and offences on the part of British subjects within the dominions of the Sultan of Muscat, it is further ordered, that it shall and may be lawful for Her Majesty's Consul to cause any British subject who shall have been twice convicted before him of any crime or offence, and punished for the same, and who, after execution of the sentence of the Consul, on any second conviction shall not be able to find good and sufficient security, to the satisfaction of the Consul, for his future good behaviour, or who having been deported under any sentence shall during such sentence return, to be sent out of the dominions of the Sultan of Muscat; and to this end the Consul shall have power and authority as soon as may be practicable after execution of the sentence on such second conviction, to send any such twice convicted party, or any person so returning as aforesaid, to Bombay, and in the meantime to detain such party in custody until a suitable opportunity for sending him out of the dominions of the Sultan of Muscat shall present itself; and any person so to be sent out of the said dominions as aforesaid, shall be embarked in custody on board of one of Her Majesty's vessels of war, or, if there shall be no such vessel available for such purpose, then on board any British vessel bound to Bombay; and it shall be lawful for the commander of any of Her Majesty's ships of war, or of any British vessel bound to Bombay, to receive any such person as aforesaid under a warrant from the Consul to him addressed, and thereupon to convey such person in custody to Bombay as aforesaid, in the same manner as if he were a distressed British subject, unless he shall be willing and able to defray the expenses of his passage.

16. And it is further ordered, that in any case in which any British subject shall be accused before Her Majesty's Consul of the crime of arson, or house-breaking, or cutting and maiming, or stabbing or wounding, or of any assault endangering life, or of wilfully causing any bodily injury dangerous to life, or of wilful or corrupt perjury, or of engaging in or being accessory to the purchase or sale of slaves, or of having slaves illegally in his possession, the proceedings before the Consul shall be carried on with the aid of assessors convened in the manner aforesaid; and it shall be lawful for the Consul, if to him it shall seem fit, to cause

any person convicted before him of any of the crimes aforesaid, over and above any fine or imprisonment which may be awarded to such person, to be sent out of the dominions of the Sultan of Muscat for such time as to him shall seem meet, in the manner pointed out in the next preceding article of this Order, notwithstanding the crime laid to the charge of such person may be the first of which he has been convicted before the Consul.

17. And it is further ordered, that it shall be lawful for Her Majesty's Consul within the dominions of the Sultan of Muscat upon information laid before him by one or more credible witnesses, that there is reasonable ground to apprehend that any British subject is about to commit a breach of the public peace, to cause such British subject to be brought before him, and to require such British subject to give sufficient security to keep the peace ; and in the event of any British subject being convicted of and punished for a breach of the peace, to cause such British subject, after he shall have undergone the punishment which may have been awarded to him by the Consul, to find security for his good behaviour ; and in the event of any British subject who may be required as aforesaid to give sufficient security to keep the peace, or to find security for his good behaviour, being unable or wilfully omitting to do so, then and in any such case it shall be lawful for Her Majesty's Consul to send such British subject out of the dominions of the Sultan of Muscat, in the manner pointed out in Article 15 of this Order.

18. And it is further ordered, that in all cases in which a British subject shall have been sent out of the dominions of the Sultan of Muscat, as provided in the three next preceding articles of this Order, the Consul sending him out shall forthwith report such act of deportation, with the grounds of his decision thereon, to the High Court of Bombay.

19. And it is further ordered, that it shall be lawful for Her Majesty's Consul to cause to be apprehended and brought before him any British subject who may be charged with smuggling or importing into the dominions of the said Sultan any goods whereon any duty shall be charged or payable to the said Sultan, with the intent to evade the payment of such duty, or any goods the importation whereof shall be prohibited ; and such Consul shall thereupon proceed with all convenient speed to inquire into the same on oath or solemn affirmation, and to hear the witnesses on both sides, with like powers and in like manner in all respects as is provided by Article 10 of this Order. And it shall be lawful for the Consul, having inquired into and heard the said charge, to determine the same, and if he shall find the party guilty, if the charge against him shall be of importing into the said dominions prohibited goods, then to award him to pay a fine not exceeding treble the value of the said goods at the current price of the day ; and if the charge shall be of smuggling or importing goods with intent to evade the payment of duty as aforesaid, then to award him to pay a fine not exceeding treble the amount of the duties leviable thereon, and in case of non-payment of any such fine or fines to award him

to be imprisoned for a period not exceeding three months, or shall be lawful for such Consul, without awarding the payment of any fine, to award that such party shall be imprisoned for a period not exceeding six months in such place as he shall appoint: Provided always, that no British subject charged only with importing prohibited goods shall be apprehended, unless and until he shall have had one week's notice to appear and answer the charge, and shall have refused, failed, or omitted so to appear.

20. And it is further ordered, that in cases of common assault it shall be lawful for the Consul before whom the complaint is made, to promote reconciliation between the parties, and to suffer compensation and amends to be made, and the proceedings thereby to be finally stayed.

21. And it is further ordered, that a minute of the proceedings in every case heard and determined before the Consul, in pursuance of this Order, shall be carefully drawn up and be signed by the Consul, and shall, in cases where the assessors are present, be open for the inspection of such assessors and for their signature if they therein shall concur; and every such minute, together with the depositions of the witnesses, shall be preserved in the public office of the said Consul.

22. And it is further ordered, that save and except as regards offences committed by British subjects against the stipulations of any treaty between Her Majesty and the Sultan of Muscat, or against any rules or regulations for the observance of the stipulations of any such treaty or convention, duly affixed and exhibited according to the provisions of Article 2 of this Order, or against any rules and regulations for the peace, order, and good government of Her Majesty's subjects being within the dominions of the Sultan of Muscat, no act done by a British subject within the dominions of the said Sultan shall by Her Majesty's Consul be deemed and taken to be a crime or misdemeanour, or offence rendering the person committing it amenable to punishment, which, if done within any part of Her Majesty's dominions, would not, by a Court of Justice having criminal jurisdiction in Her Majesty's dominions, have been deemed and taken to be a crime or misdemeanour or offence rendering the person committing it amenable to punishment; and Her Majesty is pleased to appoint, by and with the advice of Her Privy Council, Her Majesty's territory of Bombay as the place where crimes and offences committed by British subjects within the dominions of the Sultan of Muscat, which it may be expedient shall be inquired of, tried, determined, and punished within Her Majesty's dominions, shall be so inquired of, tried, determined, and punished; and Her Majesty's Consul resident in Muscat shall have authority to cause any British subject charged with the commission of any crime or offence, the cognisance whereof may at any time appertain to him, to be sent for trial at Her Majesty's said territory of Bombay.

23. And it is further ordered, that it shall be lawful for Her Majesty's Consul to cause any British subject charged with the

commission of any crime or offence, the cognisance whereof may at any time appertain to him, to be sent, in any of Her Majesty's ships of war, or in any British vessel, to Her Majesty's territory of Bombay, for trial before the High Court of the said territory; and it shall be lawful for any commander of any of Her Majesty's ships of war, or of any British vessel, to receive any such person on board, with a warrant from the said Consul addressed to the chief magistrate of police of the said territory; and thereupon to keep and detain in lawful custody, and to convey him in custody to Bombay, and on his arrival there to deliver him, with the said warrant, into the custody of the said chief magistrate of police, or other officer within the said territory lawfully acting as such, who, on receipt of the said warrant, and of the party therein named, shall be authorised to commit, and shall commit, such party so sent for trial to the common gaol of the said territory; and it shall be lawful for the keeper of the said common gaol to cause such party to be detained in safe and proper custody, and to be produced upon the order of the said High Court; and the High Court at the sessions to be holden next after such committal shall proceed to hear and determine the charge against such party, and to punish him for the same, if found guilty, in the same manner as if the crime with which he may be charged had been committed within Her Majesty's said territory of Bombay.

24. And it is further ordered, that Her Majesty's Consul, on any occasion of sending a prisoner to Bombay for trial, shall observe the provisions made with regard to prisoners sent for trial to a British Colony in an Act passed in the sixth and seventh years of Her Majesty's reign,* intituled "An Act to remove doubts as to the exercise of power and jurisdiction by Her Majesty within divers countries and places out of Her Majesty's dominions, and to render the same more effectual."

25. And it is further ordered, that the High Court of Bombay shall have and may exercise, concurrently with Her Majesty's Consul, authority and jurisdiction in regard to all suits of a civil nature between British subjects arising within any part of the dominions of the Sultan of Muscat: Provided always, that the said High Court shall not be bound, unless in a fit case it shall deem it right so to do, by writ of certiorari or otherwise, to debar or prohibit the Consul from hearing and determining, pursuant to the provisions of the several articles of this Order, any suit of a civil nature between British subjects, or to stay the proceedings of the Consul in any such matter.

26. And it is further ordered, that all fines and penalties imposed under this Order may be levied by distress and seizure, and sale of ships, and of goods and chattels; and no bill of sale, mortgage, or transfer of property made by a party accused after his apprehension, or with a view to securing such party against any crime

* The Foreign Jurisdiction Act, 1843 (6 & 7 Vict. c. 94); now repealed and consolidated with other Acts by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

or offence committed or to be committed by him, or against the consequences thereof, shall avail to defeat any of the provisions of this Order.

27. And it is further ordered, that it shall be lawful for Her Majesty's Consul, from time to time, to establish rules of practice to be observed in proceedings before him, and to make regulations for defraying the expenses of witnesses in such proceedings, and the cost of criminal prosecutions, and also to establish rates and scales of fees to be taken in regard to civil suits heard and determined before the said Consul ; and it shall be lawful for the said Consul to enforce by seizure and sale of goods, or, if there be no sufficient goods, by imprisonment, the payment of such established fees, and of such costs or expenses as may be adjudged against the parties, or any of them : Provided always, that a table specifying the rates of fees to be so taken shall be affixed and kept exhibited in the public office of the said Consul.

28. And it is further ordered, that all fees, penalties, fines, and forfeitures levied under this Order, save and except such penalties as may by treaty be payable to the Sultan of Muscat, shall be paid to the public account, and shall be applied in diminution of the public expenditure on account of Her Majesty's Consulate in Muscat : Provided always, that in the event of any of the Muscat authorities declining to receive fines payable to the Government of Muscat as aforesaid, the same shall also be paid to the public account, and applied in the manner last mentioned.

29. And it is further ordered, that Her Majesty's Consul within the dominions of the Sultan of Muscat shall, for and within the said dominions, and for vessels and persons coming within those dominions, and in regard to vessels captured on suspicion of being engaged in the slave trade within those dominions, have all such jurisdiction as for the time being ordinarily belongs to Courts of Vice-Admiralty in Her Majesty's possessions abroad. And it is further ordered, that it shall be lawful for Her Majesty's Consul to grant probate of will or letters of administration to the intestate estate of any British subject, or any native of a State or place under British protection, who shall die and leave property within the dominions of the Sultan of Muscat ; and if such probate or letters of administration shall not be applied for within thirty days after the death of the deceased person, it shall be lawful for the Consul to administer to the estate of such person, and for so doing to reserve to himself out of the proceeds of such estate a commission not exceeding two and a half per cent. on the account thereof.

30. And it is further ordered, that a register shall be kept by Her Majesty's Consul of all British subjects, and of all natives of British-protected States in India who may claim British protection, residing within the dominions of the Sultan of Muscat, and that every British subject now residing within such dominions who shall not have been already enrolled in such consular register shall, within a reasonable time after the promulgation of this Order—such time to be specified in a notice affixed and publicly exhibited

in the Consular Office—apply to the Consul to be enrolled in such register ; and every British subject who may arrive within the said dominions (except British subjects borne on the muster-roll of any British ship arriving in any port of Muscat), shall, within a reasonable time after his arrival, such time to be specified as aforesaid, also apply to the Consul to be enrolled in such register ; and any British subject who shall refuse or neglect to comply to be so enrolled as hereinbefore mentioned, and who shall not excuse such refusal or neglect to the satisfaction of the Consul, shall not be entitled to be recognised or protected as a British subject in respect to any suit, dispute, or difficulty in which he may have been, or may be, engaged or involved within the dominions of the Sultan of Muscat, at any time when he shall not have been or shall not be so enrolled.

31. And it is further ordered, that Her Majesty's Consul shall and may exercise all or any of the powers which, by any Act or Acts of the Imperial Parliament for the regulation of merchant seamen, or for the regulation of the mercantile marine, may now, or at any time hereafter, be exercised by any justice or justices of the peace within Her Majesty's dominions.

32. And it is further ordered, that nothing in this Order contained shall be deemed or construed to prevent Her Majesty's Consul, within the dominions of the Sultan of Muscat, from doing or performing any act whatsoever which British Consuls within any other State in amity with Her Majesty are by law, usage, or sufferance entitled or enabled to do or perform.

33. And it is further ordered, that every action or suit brought against Her Majesty's Consul, by reason of anything done under the authority of this Order, shall be commenced within six calendar months next after the doing thereof, and not otherwise ; and the defendant in every such action or suit shall be entitled to the benefit of the provisions, made with respect to defendants in actions or suits in the said hereinbefore recited Act of the sixth and seventh years of Her Majesty's reign.*

34. And it is further ordered, that the word "Consul" in this Order, shall include every person duly authorised to act in the aforesaid capacity, within the dominions of the Sultan of Muscat ; and that, in the construction of this Order, words importing the singular number shall, if necessary, be understood to include several persons, matters, or things ; and words importing the masculine gender only, shall, if necessary, be understood to import the feminine gender, unless there be something in the subject or context repugnant to such construction.

35. And it is further ordered, that the provisions of this Order, relating to British subjects, shall extend and apply to all subjects of Her Majesty, whether by birth or by naturalisation, and also

* The Foreign Jurisdiction Act, 1843 (6 & 7 Vict. c. 94), now repealed and consolidated with other Acts by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

to all persons enjoying Her Majesty's protection * in the dominions of the Sultan of Muscat. And it is further ordered, that this Order shall take effect on and after the first day of December next.

36. And the Right Honourable Lord Stanley, and the Right Honourable Sir Stafford Northcote, Bart., two of Her Majesty's Principal Secretaries of State, and the Lords Commissioners of the Admiralty are to give the necessary directions herein as to them may respectively appertain.

Arthur Help.

8. Pacific Ocean.†

"The PACIFIC ORDER IN COUNCIL, 1893."‡

At the Court at Windsor, the 15th day of March, 1893.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.

Mr. Bryce.

Lord Chamberlain.

Preamble.

Whereas by the second and sixth sections of the British Settlements Act, 1887,§ it is enacted as follows :—

"2. It shall be lawful for Her Majesty the Queen in Council from time to time to establish all such laws and institutions, and constitute such courts and officers, and make such provisions and regulations for the proceedings in the said courts and for the administration of justice, as may appear to Her Majesty in Council to be necessary for the peace, order, and good government of Her Majesty's subjects and others within any British settlement.

"6. For the purposes of this Act, the expression 'British possession' means any part of Her Majesty's possessions out of the United Kingdom, and the expression 'British settlement' means any British possession which has not been acquired by cession or conquest, and is not for the time being within the jurisdiction of the Legislature, constituted otherwise than by virtue of this Act or of any Act repealed by this Act, of any British possession."

And whereas there are in the Pacific Ocean certain islands and places which are, or may hereafter become British settlements within the meaning of the said Act.

And whereas there are also in the Pacific Ocean certain islands

* See section 4 of the Slave Trade Act, 1876 (39 & 40 Vict. c. 46), extending this provision; that section is now repealed and consolidated in section 15 of the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

† Under Orders in Council, printed under the title "Merchant Shipping," Deputy Commissioners or Residents in the Gilbert and Ellice and Solomon Islands and in the New Hebrides exercise the powers of a British Consular Officer under the Merchant Shipping Act, 1894.

‡ This Order is superseded as to the Cook Islands Protectorate by Order in Council of May 13, 1901, including those islands in the Colony of New Zealand. This Order is printed under the title "New Zealand."

§ 50 & 51 Vict. c. 54.

or places which are, or may hereafter come, under the protection of Her Majesty.

And whereas by treaty, grant, usage, sufferance, or other lawful means Her Majesty has, or may have, power and jurisdiction in the said last-mentioned islands and places.

And whereas by the Pacific Islanders Protection Act, 1872,* provision is made for the prevention and punishment of criminal outrages upon natives of islands in the Pacific Ocean, not being in Her Majesty's dominions nor within the jurisdiction of any civilised power.

And whereas by the sixth and seventh sections of the Pacific Islanders Protection Act, 1875,† it is enacted as follows :—

“6. It shall be lawful for Her Majesty to exercise power and jurisdiction over Her subjects within any islands and places in the Pacific Ocean not being within Her Majesty's dominions, nor within the jurisdiction of any civilised power, in the same and as ample a manner as if such power or jurisdiction had been acquired by the cession or conquest of territory, and by Order in Council to create and constitute the office of High Commissioner in, over, and for such islands and places, or some of them, and by the same or any other Order in Council to confer upon such High Commissioner power and authority, in Her name and on Her behalf, to make regulations for the government of Her subjects in such islands and places, and to impose penalties, forfeitures, or imprisonments for the breach of such regulations.

“It shall be lawful for Her Majesty, by Order in Council, to create a court of justice with civil, criminal, and Admiralty jurisdiction over Her Majesty's subjects within the islands and places to which the authority of the said High Commissioner shall extend and with power to take cognisance of all crimes and offences committed by Her Majesty's subjects within any of the said islands and places, or upon the sea, or in any haven, river, creek, or place within the jurisdiction of the Admiralty ; and Her Majesty may, by Order in Council, from time to time direct that all the powers and jurisdiction aforesaid, or any part thereof, shall be vested in and may be exercised by the court of any British colony designated in such Order, concurrently with the High Commissioner's court or otherwise, and may provide for the transmission of offenders to any such colony for trial and punishment, and for the admission in evidence on such trial of the depositions of witnesses taken in such islands and places as aforesaid, and for all other matters necessary for carrying out the provisions of such Order in Council.

“It shall also be lawful for Her Majesty, by any Order or Orders in Council, from time to time to ordain for the government of Her Majesty's subjects, being within such islands and places, any law or ordinance which to Her Majesty in Council may seem meet, as fully and effectually as any such

* 35 & 36 Vict. c. 19.

† 38 & 39 Vict. c. 51.

law or ordinance could be made by Her Majesty in Council for the government of Her Majesty's subjects within any territory acquired by cession or conquest.

"The person for the time being lawfully acting in the capacity of High Commissioner, and any Deputy Commissioner, duly appointed and empowered under the provisions of any such Order in Council as aforesaid, and acting under the directions of the High Commissioner, shall have and may exercise and perform any power, authority, jurisdiction, and duty vested in or imposed upon any British consular officer by the principal Act or by any other Act having reference to such consular officers, passed either before or after the passing of this Act; and every such Act shall be construed as if the said High Commissioner and Deputy Commissioner were named therein in addition to a British consular officer.

"7. Nothing herein or in any such Order in Council contained shall extend or be construed to extend to invest Her Majesty, Her heirs or successors, with any claim or title whatsoever to dominion or sovereignty over any such islands or places as aforesaid or to derogate from the rights of the tribes or people inhabiting such islands or places, or of chiefs or rulers thereof, to such sovereignty or dominion."

And whereas by the Foreign Jurisdiction Act, 1890,* and otherwise, Her Majesty has jurisdiction in the aforesaid islands and places not being within Her Majesty's dominions, nor within the jurisdiction of any civilised power.

And whereas by the first, second, and fifth sections of the Foreign Jurisdiction Act, 1890,* it is enacted as follows:—

"1. It is, and shall be lawful for Her Majesty the Queen to hold, exercise, and enjoy any jurisdiction which Her Majesty now has, or may at any time hereafter have, within a foreign country in the same and as ample a manner as if Her Majesty had acquired that jurisdiction by the cession or conquest of territory.

"2. Where a foreign country is not subject to any government from whom Her Majesty the Queen might obtain jurisdiction in the manner recited by this Act, Her Majesty shall by virtue of this Act have jurisdiction over Her Majesty's subjects for the time being resident in or resorting to that country, and that jurisdiction shall be jurisdiction of Her Majesty in a foreign country within the meaning of the other provisions of this Act.

"5.—(1.) It shall be lawful for Her Majesty the Queen in Council, if she thinks fit, by order to direct that all or any of the enactments described in the First Schedule to this Act, or any enactments for the time being in force amending or substituted for the same, shall extend, with or without any exceptions, adaptations, or modifications in the order mentioned, to any foreign country in which for the time being Her Majesty has jurisdiction.

* 53 & 54 Vict. c. 37.

“(2.) Thereupon those enactments shall, to the extent of that jurisdiction, operate as if that country were a British possession, and as if Her Majesty in Council were the legislature of that possession.”

And whereas Her Majesty hath power by Order in Council to make laws for the Colony of Fiji.*

And whereas the following Orders in Council have been made under the powers by the Pacific Islanders Protection Act, 1875,† or otherwise in Her Majesty vested, that is to say :

The Western Pacific Order in Council of 1877‡ and 1879.§

The Western Pacific Order in Council of 1880.||

And whereas it is expedient to amend and consolidate the said Orders in Council, and to make further provision for the purposes in the recited Acts mentioned.

Now, therefore, Her Majesty, by virtue and in exercise of the powers in this behalf, by the British Settlements Act, 1887,¶ the Pacific Islanders Protection Acts,** and the Foreign Jurisdiction Act, 1890,†† or otherwise in Her Majesty vested, is pleased, by and with the advice of her Privy Council, to order, and it is hereby ordered, as follows :—

1. This Order may be cited as the Pacific Order in Council, Short title. 1893.

2. This Order is divided into parts as follows :—

Parts.	Articles.	Division of the Order into parts.
I.—Interpretation and Application	3–6	
II.—Constitution of Courts and High Commission	7–19	
III.—General Law	20–23	
IV.—General Powers of Courts and General Procedure	24–35	
V.—Special Powers of Courts (Bankruptcy, Admiralty, Probate, Divorce, Lunacy)	36–48	
VI.—Criminal Law and Procedure	49–87	
VII.—Appeals	88	
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XI.—Treaties and Queen's Regulations	108	
XII.—Foreigners and Foreign Courts	109–110	
XIII.—Deportation and Removal	111–112	
XIV.—Registration	113–114	
XV.—Births, Marriages, and Deaths	115–136	
XVI.—Official	137–139	
XVII.—Fees and Expenses	140	
XVIII.—Supplemental	141–142	
XIX.—Commencement, Publication, Repeals, &c.	143–146	

* As to Fiji, see Letters Patent, printed under that title.

† 38 & 39 Vict. c. 51. ‡ Printed in “Hertslet's Treaties,” Vol. 14, p. 871.

§ Printed in “Hertslet's Treaties,” Vol. 14, p. 1245.

|| Printed in “Hertslet's Treaties,” Vol. 15, p. 752.

¶ 50 & 51 Vict. c. 54. ** 35 & 36 Vict. c. 19; 38 & 39 Vict. c. 51.

†† 53 & 54 Vict. c. 37.

*Part I.—Interpretation and Application.*Interpreta-
tion.

3. In this Order, unless the subject or context otherwise requires,
- “Secretary of State” means one of Her Majesty’s Principal Secretaries of State ;
 - “Supreme Court” means the Supreme Court of Fiji ;
 - “Chief Justice” means the Chief Justice for the time being of the Supreme Court of Fiji ;
 - “Resident” means having a fixed place of abode in one of the islands or places to which this Order applies ;
 - “Native” means any person not being a British subject or a foreigner ;
 - “Treaty” includes convention, and agreement in the nature of a treaty or convention, and every other engagement or instrument of a political character, together with every instrument annexed thereto or agreed to in pursuance thereof ;
 - “Crime” or “offence” includes any crime or offence, and any act punishable criminally, in a summary way or otherwise ;
 - “Prosecutor” means complainant or any person appointed or allowed by a court to prosecute ;
 - “Month” means calendar month ;
 - “Pound” means pound sterling ;
 - “Will” means will, codicil, or other testamentary instrument ;
 - “Office copy” means a copy, either made under direction of a court, or produced to the proper officer of a court for examination with the original and examined by him therewith, and in either case sealed with the seal of the court, as evidence of correctness ;
 - “Oath and affidavit” and words referring thereto, or to swearing, may be construed to include affirmation and declaration, and to refer thereto, or to the making of an affirmation or declaration, where an affirmation or declaration is admissible in lieu of an oath or affidavit ;
 - “Proved” means shown by evidence on oath, in the form of affidavit, or other form, to the satisfaction of a court, or of the member or officer thereof acting or having jurisdiction in the matter ;
 - “Proof” means the evidence adduced in that behalf ;
 - “Person” includes corporation ;
 - “Vessel” includes a ship or boat ;
- The plural includes the singular and the singular the plural and the masculine the feminine ;
- “Prescribed” means prescribed or directed by a Secretary of State or prescribed or directed by any court, authority, or person having power in relation to the matter in respect of which the expression is used,

or prescribed or directed by any rules or regulations made under this Order.

4. The limits of this Order shall be the Pacific Ocean and the islands and places therein, including— Limits of Order.

(a.) Islands and places which are for the time being British settlements,

(b.) Islands and places which are for the time being under the protection of Her Majesty,

(c.) Islands and places which are for the time being under no civilised government,

but exclusive (except as in this Order expressly provided in relation to any particular matter) of—

(1.) Any place within any part of Her Majesty's dominions or the territorial waters thereof which is for the time being within the jurisdiction of the legislature of any British possession.

(2.) Any place for the time being within the jurisdiction or protectorate of any civilised power.

5. In islands and places which are not British settlements, or under the protection of Her Majesty, jurisdiction under this Order shall be exercised (except only as in this Order otherwise expressly provided) only over Her Majesty's subjects, and any foreigners or natives, in so far as by reason of being, or having been, on board a British ship or otherwise they have come under a duty of allegiance to Her Majesty, and their property and personal and proprietary rights and obligations. Persons subject to this Order.

6. Until otherwise directed by a Secretary of State as hereinafter provided, jurisdiction under this Order shall be exercised only in relation to the following parts of the limits of this Order, that is to say— Local application of Order.

(1.) The groups of islands with the dependencies and territorial waters thereof known as—

The Friendly Islands.

The Navigators' Islands.

The Union Islands.

The Phoenix Islands.

The Ellice Islands.

The Gilbert Islands.

The Solomon Islands, so far as they are not within the jurisdiction of the German Empire.

The Santa Cruz Islands.

(2.) Any seas, islands, and places which are not excluded by the 4th Article of this Order, and are situate in the Western Pacific Ocean, that is to say, within the following limits—

North, from 140° east longitude by the parallel 12° north latitude to 160° west longitude, thence south to the equator, and thence east to 149° 30' west longitude.

East by the meridian of 149° 30' west longitude.

South by the parallel 30° south latitude.

West by the meridian 140° east longitude.

Provided that the Secretary of State from time to time, by any instructions given to the High Commissioner and published as the Secretary of State thinks fit, may direct that jurisdiction under this Order may be exercised in relation to any part of the limits of this Order not herein specified, or that any part of the limits of this Order shall, until otherwise directed, be excepted from the application of this Order.

Provided also that in relation to the Navigators' Islands, this Order is subject to the provisions of the Final Act of the Conference on the Affairs of Samoa, signed at Berlin, the 14th June, 1889.*

Part II.—Constitution of Courts and High Commission.

High Com-
missioner.

7.—(1.) The office of High Commissioner created and constituted by the recited Orders in Council shall continue, and the High Commissioner shall continue to be styled Her Britannic Majesty's High Commissioner for the Western Pacific, and shall have an official seal as heretofore.

(2.) The High Commissioner shall be appointed by Commission under the Sign Manual. He may be suspended by the Secretary of State by writing under his hand.

(3.) During a vacancy in the office of the High Commissioner, or during suspension of the High Commissioner, or in case of his incapacity by reason of illness or otherwise, all the powers of the High Commissioner shall be vested in such person as Her Majesty appoints under Her Sign Manual, or, failing any such appointment, then in the person for the time being discharging the functions of Chief Justice of Fiji.

(4.) Subject to the provisions of this Order as to the places at which Courts are to be held, and subject to any direction by the Secretary of State, the High Commissioner may exercise any of his powers, including his powers for making orders of prohibition and removal, although at the time of exercising them he is not within the limits of this Order.

Special Com-
missioner.

(5.) Her Majesty may from time to time appoint by Commission under the Sign Manual any person to be Her Majesty's Special Commissioner for the Western Pacific. Subject to any restrictions contained in his Commission a Special Commissioner shall have and exercise, during Her Majesty's pleasure, the powers and jurisdiction of the High Commissioner within such part of the limits of this Order as is specified in his Commission. The appointment of a Special Commissioner shall not limit or affect any power or jurisdiction of the High Commissioner.

Assistant
High Com-
missioner.

(6.) Subject to any restrictions contained in his Commission or prescribed from time to time by the Secretary of State, the High Commissioner may from time to time, by writing under his hand and seal, appoint a Judicial Commissioner or a Deputy Commissioner to represent him in the exercise of any of his powers, or during his absence from the limits of this Order or from Fiji, with or without any limitations or conditions, and the Commissioner

so appointed shall, for the purposes for which he is appointed, have and exercise the powers of the High Commissioner, and shall be styled Assistant High Commissioner. Any such appointment may be revoked by the High Commissioner, by writing under his hand and seal. The appointment of an Assistant High Commissioner shall not limit or affect any power or jurisdiction of the High Commissioner.

An Assistant High Commissioner shall not exercise any of his powers except within the limits of this Order or in Fiji.

8.—(1) The Chief Justice and every other Judge for the time being of the Supreme Court, shall be, by virtue of his office, a Judicial Commissioner for the Western Pacific for the purposes of this Order, and is in this Order referred to as a Judicial Commissioner.

(2.) Where, in the opinion of the High Commissioner, the attendance of a Judicial Commissioner holding office as aforesaid is impracticable, or would be inconvenient, the High Commissioner may from time to time in the name and on behalf of Her Majesty, by writing under his hand and seal, appoint a person of legal knowledge and experience to be a Judicial Commissioner for particular purposes or for a particular time.

(3.) Every Judicial Commissioner shall, for the purposes of so much of section 6 of the Pacific Islanders Protection Act of 1875,* as relates to Deputy Commissioners, be deemed to be, and shall by virtue of this Order be, a Deputy Commissioner duly appointed and empowered under the provisions of this Order, and acting under the directions of the High Commissioner.

(4.) A Judicial Commissioner shall not be deemed to be a Deputy Commissioner within any other article of this Order unless it be in any article expressly provided that for the purposes of that article a Judicial Commissioner shall be deemed to be a Deputy Commissioner.

9.—(1.) There shall be such number of deputies of the High Commissioner, each of whom shall be styled one of Her Majesty's Deputy Commissioners for the Western Pacific, as a Secretary of State from time to time directs.

(2.) Every Deputy Commissioner shall be appointed in the name and on behalf of Her Majesty by the High Commissioner, by writing under his hand and seal.

(3.) Where, in the opinion of the High Commissioner, the attendance of a Deputy Commissioner appointed as aforesaid is impracticable, or would be inconvenient, the High Commissioner may from time to time in the name and on behalf of Her Majesty, by writing under his hand and seal, appoint any officer holding Her Majesty's Commission or any other person a Deputy Commissioner for a particular purpose, or for a particular time and district.

(4.) A Deputy Commissioner shall be liable to be suspended or removed by the High Commissioner by writing, under his

* 38 & 39 Vict. c. 51.

hand and seal, stating the grounds of suspension or removal, and the same shall be reported forthwith to the Secretary of State.

(5.) The appointment of a Deputy Commissioner shall not be affected by any vacancy or change in the office of High Commissioner

Definition.

10. Except as otherwise expressed in this Order, expressions referring to a Commissioner include the High Commissioner, and any Special Commissioner, and any Judicial Commissioner, and any Deputy Commissioner, and any expression referring to a High Commissioner, or a Judicial Commissioner, or a Deputy Commissioner respectively includes a person lawfully acting as such, whether assistant or deputy, or under any special or local appointment or otherwise, and any expression referring to a High Commissioner includes a Special Commissioner.

Existing Commissioners.

11. Every person who, at the commencement of this Order, holds office as High Commissioner or Assistant High Commissioner, or as a Judicial Commissioner, or Deputy Commissioner, shall continue to hold office as if he had been appointed under this Order, and shall be subject to all the provisions of this Order accordingly.

The High Commissioner's Court.

12. The Court created by the recited Orders in Council shall continue, and be styled as heretofore Her Britannic Majesty's High Commissioner's Court for the Western Pacific, and shall have a seal as heretofore, and shall be a superior court of record and a court of law and equity.

The members of the Court shall be the High Commissioner, the Judicial Commissioners, and the Deputy Commissioners. The Court shall continue and be competent to act for all purposes notwithstanding any vacancy or vacancies therein.

Jurisdiction of High Commissioner's Court.

13. All Her Majesty's judicial jurisdiction exercisable within the limits of this Order shall, subject and according to the provisions of this Order, be vested in and exercised by the High Commissioner's Court.

For additional certainty Her Majesty expressly directs that jurisdiction in respect of all matters and questions arising under the Pacific Islanders Protection Acts, 1872 and 1875,* shall be vested in and exercised by the High Commissioner's Court.

Constitution of the Court.

14.—(1.) The whole jurisdiction and authority of the High Commissioner's Court may, subject and according to the provisions of this Order, be exercised by the High Commissioner or by a Judicial Commissioner, either within any island or place to which this Order applies (whether or not any Deputy Commissioner has been assigned thereto) or in Fiji.

(2.) The whole or any part of the jurisdiction and authority of the High Commissioner's Court may, subject and according to the provisions of this Order, be exercised in relation to any district, as herein defined, by a Deputy Commissioner, being authorised by the terms of his appointment to act for and in respect of that district, and being within that district.

* 35 & 36 Vict. c. 19; 38 & 39 Vict. c. 51.

(3.) The term “district” in this Order means the particular district for and in respect of which a Deputy Commissioner is assigned to act.

(4.) Each member of the High Commissioner’s Court exercising, for the time being, the jurisdiction and authority thereof in conformity with this Order shall, for the purposes of this Order, be deemed to form the High Commissioner’s Court.

(5.) The term “the Court” in this Order includes and applies to every member so exercising jurisdiction and authority.

(6.) Subject to any directions of the Secretary of State, the High Commissioner, from time to time, by writing under his hand, may define districts, and declare the islands and places to be comprised therein, and may prescribe an official name or designation of any such district, and appoint a place or places therein at which the Court may be held, and assign a Deputy Commissioner to act in respect thereof and prescribe a seal of the Court for such district.

(7.) The Court when held in and for any such district is in this Order referred to as a “District Court.”

(8.) Any Deputy Commissioner who has been or may be appointed generally may hold a District Court at any place within the limits of this Order; Provided that he shall not hold such Court within a district for which a Deputy Commissioner is appointed, except in case of the illness or absence of such Deputy Commissioner, or in case of emergency, or with the previous sanction of the High Commissioner.

15. The Supreme Court shall be the Court of Appeal for the purposes of this Order. Appellate and original jurisdiction of the Supreme Court of Fiji.

The Supreme Court or a judge thereof sitting in Fiji shall also have original jurisdiction to hear and determine in Fiji any civil or criminal cause or matter arising at any place within the limits of this Order, and may (subject as hereinafter provided), as it thinks just, proceed either according to the procedure for the time being in use in Fiji or according to the procedure under this Order.

16.—(1.) Subject to the directions of the Secretary of State, the High Commissioner may from time to time appoint and remove registrars, clerks, bailiffs, interpreters, or other officers of the High Commissioner’s Court, and may prescribe their duties. Officers of the Court.

(2.) Any Commissioner, and also any registrar or officer of the Court designated in this behalf by the High Commissioner, shall have power to administer oaths and take affidavits, declarations, and affirmations.

(3.) Any Commissioner may, subject to any directions as aforesaid, appoint any person temporarily to perform, with or without remuneration, in relation to any particular cases or matters, the duties of a registrar or other officer.

17. Writs of summons, warrants, orders, or other instruments Seal. M
issuing from a Court, or by this Order or by any rules or regulations required to be sealed, shall be sealed with the seal of the Court or signed by a Commissioner with his ordinary signature

and his official description. No proof shall be required of any such seal, signature, or description. Any such signature shall have the same effect as a seal.

Powers of
naval officers.

18. Any officer holding Her Majesty's Commission and being in command of any of Her Majesty's ships or acting for the purposes of this article with the written consent of the officer in command of any such ship, may, within the limits of this Order, exercise any of the powers following, that is to say—

- (1.) He may exercise any power which can be exercised by a Deputy Commissioner for the purpose of enforcing the attendance or apprehension of any person alleged to have committed an offence, and for the purpose of taking a preliminary examination and committing such person for trial.
- (2.) He may, with the consent in writing of such person in any case in which the offence is triable without assessors, hear and determine the case summarily, and for that purpose may exercise any of the powers of a Deputy Commissioner.
- (3.) He may, in any case, take any depositions on oath, and transmit them to any Court acting under this Order; and thereupon such Court may, if it think fit, issue its summons or warrant for the attendance or apprehension of any person appearing by such depositions to have been guilty of any offence.
- (4.) He may apprehend and cause to be conveyed within the local jurisdiction of any Court acting under this Order any person against whom a warrant has been issued by any Court acting under this Order, and may do so without being in possession of such warrant.
- (5.) He may authorise any person under his command to aid and assist him in exercise of any of the powers aforesaid in his presence or otherwise.
- (6.) He may, with the consent in writing of the parties to any civil dispute, exercise any of the powers which can be exercised by a Deputy Commissioner, either by way of conciliation or arbitration or by way of judicial determination.

Provided (1) that in all cases in which an officer exercises any power or jurisdiction under this section he shall, so soon as may be, report the particulars of the case with signed minutes of the proceedings, to the nearest Court or to the High Commissioner.

(2.) That the High Commissioner may in any case, on such terms as he thinks just, vary, or revoke any order or determination made under this article, and may direct a rehearing of any matter by such Court as he thinks convenient.

An officer acting in good faith in the supposed exercise of powers under this article, shall have all the like immunities and protection as a Commissioner acting under this Order in a matter within his jurisdiction.

19. Nothing in this Order shall affect any power or jurisdiction of any court, authority, or person under the Act of the ninth of George the Fourth, chapter 83, or under any other Act of Parliament or Act or Ordinance of any of Her Majesty's possessions for the time being in force. Saving of local Acts.

Part III.—General Law.

20. Subject to the other provisions of this Order, the civil and criminal jurisdiction exercisable under this Order shall, so far as circumstances admit, be exercised upon the principles of and in conformity with the substance of the law for the time being in force in and for England, and with the powers vested in and according to the course of procedure and practice observed by and before courts of justice and justices of the peace in England, according to their respective jurisdictions and authorities. Exercise of civil and criminal jurisdiction in conformity with English law and procedure.

21. Except as to crimes or offences made or declared such by this Order, or by any regulation or rule made under it,— What acts to be deemed crimes and offences.

Any act other than an act that would by a court of Justice having criminal jurisdiction in England be deemed a crime or offence, making the person doing such act liable to punishment in England, shall not, in the exercise of criminal jurisdiction under this Order, be deemed a crime or offence, making the person doing such act liable to punishment.

22. The provisions of any treaty with Her Majesty or Her successors for the time being in force with respect to any place within the limits of this Order shall have effect as part of the law to be enforced under this Order in relation to such place, and in case of inconsistency between such provisions and the law in force in England, or anything contained in this Order, effect shall be given to such provisions. Effect of treaty stipulations.

23. Crimes, offences, wrongs, and breaches of contract against or affecting the person, property, or rights of natives or foreigners, committed by persons subject to this Order, are, subject to the provisions of this Order, punishable or otherwise cognisable, in the same manner as if they were committed against or affected the person, property, or rights of British subjects. Punishment of crimes, &c., against natives and foreigners.

Part IV.—General Powers of Court and General Procedure.

24. The High Commissioner or the Supreme Court may, from time to time, admit fit persons to practise in the Court as barristers and solicitors, or in either of those capacities ; and may from time to time, subject to the approval of the Secretary of State, make rules for regulating the admission of persons to practise as aforesaid. Admission of barristers and solicitors to practice in the Court.

Jurisdiction
of Courts
over matters
arising wholly
or partly
within their
districts.

25. In any matter, civil or criminal, a district court within whose district (in civil matters) the matter of complaint, wholly or in part, arose or happened, or the subject in dispute is wholly or partly situate, or the contract in question was wholly or partly made, or the breach thereof wholly or partly occurred, or the defendant resides or carries on business, or (in criminal matters) the crime was wholly or partly committed, or the accused person happens to be, shall have jurisdiction, and may deal with the case, as if every material fact or thing had happened or was situated within its district; but any such Court, if, in its opinion, justice or convenience so requires, may decline or suspend the exercise of jurisdiction, and may, if it thinks necessary or just, require security from the defendant or accused person for his appearance before some other Court having jurisdiction in the matter, and for obedience to any judgment or order of such other Court, and further, in a criminal case, if necessary, may arrest and commit the accused person, and cause him to be removed under warrant and in custody, to be dealt with by such other Court.

Power to
rehear civil
matters
and review
judgments.

26. A Court acting under this Order shall have power to rehear any civil matter, and to review its judgments or orders in any civil case in which, in the opinion of the Court, justice so requires, on such terms as to costs and otherwise as the Court thinks just.

Powers of
High Com-
missioner as
to rehearing.

27. (1.) The High Commissioner may, if he thinks fit, on the application of any party to any civil proceeding before a Deputy Commissioner, order a rehearing thereof before himself, with the Deputy Commissioner before whom it was heard, or with any other Deputy Commissioner.

(2.) If, on the rehearing, there is a difference of opinion between the High Commissioner and the Deputy Commissioner sitting with him, the opinion of the High Commissioner shall prevail.

(3.) The provisions of this Order respecting a hearing shall extend, as far as may be, to such a rehearing.

Minutes.

Minutes of
proceedings.

28. In every case, civil or criminal, proper minutes of the proceedings shall be drawn up, and shall be signed by the judge or officer before whom the proceedings are taken, and sealed with the seal (if any) of the Court, and shall, where assessors are present, be open for their inspection and for their signature if concurred in by them.

The minutes, with depositions of witnesses and notes of evidence taken at the trial by the judge or officer, shall be preserved in the public office of the Court, or as the High Commissioner directs.

Registrar.

Registrar and
designated
officers may
administer
oaths.

29. Any registrar of the Court or person acting as registrar, and any other officer of the Court designated in this behalf by the judge of the Court, may administer oaths, and take affidavits, declarations, and affirmations.

30. The judge of the Court shall be and act as the registrar of the Court, if there is no other person appointed to be registrar there.

Judge may
act as
registrar.

Costs, Fees, &c.

31. In a civil case the Court may order such costs, or costs, charges, and expenses, as to the Court seem reasonable, to be paid by any party to the proceedings, or out of any fund to which the proceedings relate.

Costs, fees,
&c., in civil
cases.

32. All costs and all charges and expenses of witnesses, prosecutions, punishments and deportations, and other charges and expenses, and all fees, fines, forfeitures, and pecuniary penalties payable under this Order, and all judgments, may be enforced by arrest or by distress and seizure and sale of ships, goods, and lands, and in default of sufficient distress, by imprisonment; and no bill of sale, or mortgage, or transfer of property, made with a view to security in regard to crimes committed, shall be of any avail to defeat any provision of this Order.

Payment of
costs, penal-
ties, &c., how
enforced.

Imprisonment in default of distress shall not, except as may be provided by rules of procedure made under this Order, operate as a discharge or satisfaction.

Imprison-
ment in de-
fault of dis-
tress.

33. Where money ordered by the Court to be paid is due for seamen's wages, or is other money recoverable under the Merchant Shipping Acts or other law relating to ships, and the person ordered to pay has not paid as ordered, the Court, in addition to other powers for compelling payment, shall have power to direct that the amount unpaid be levied by seizure and sale of the ship.

Power to levy
moneys
recoverable
under Mer-
chant Ship-
ping Acts,
&c.

Arbitration and Reconciliation.

34. The Court may promote reconciliation, and encourage and facilitate the settlement in an amicable way of any suit or proceeding pending before it.

Reconcilia-
tion.
Settlement of
litigation.
Reference to
arbitration.

The Court may, with the consent of the parties, refer to arbitration the final determination of any suit or proceeding pending before it, or of all matters in difference between the parties, on such terms and with such directions as to appointment of an arbitrator and other things as may seem fit, and may, if it thinks fit, take from the parties, or any of them, security to abide by the result of the reference.

In any such case the award shall be final and conclusive.

Award to be
final.

On the application of any party a decree of the Court may be entered in conformity with the award, and such decree shall not be open to any appeal or rehearing whatever, except on the ground that it is not in conformity with the award.

Decree of the
Court.

Every agreement for reference to arbitration or submission to arbitration by consent may, on the application of any party, be made a rule of a Court having jurisdiction in the matter of the reference or submission, which Court shall thereupon have power and authority to enforce the agreement or submission and the award made thereunder, and to control and regulate the pro-

Reference to
arbitration
made rule of
Court.

ceedings before and after the award in such manner and on such terms as may be just.

Informalities.

Informalities, mistakes, and omissions. 35. No proceeding under this Order shall be invalidated by any informality, mistake, or omission so long as, in the opinion of any Court before which any question arises, the essential requisites of law and justice have been complied with, or may be met by amendment.

Part V.—Special Powers (Bankruptcy, Admiralty, Probate, Divorce, &c.).

Bankruptcy.

Court to be
Bankruptcy
Court.

36. The Court shall be a Court of Bankruptcy, and as such shall, as far as circumstances admit, have, with respect to persons subject to the jurisdiction of the Court and to their debtors and creditors, all such jurisdiction as, for the time being, belongs to any judicial authority having for the time being jurisdiction in bankruptcy in England.

Admiralty.

Colonial
Courts of
Admiralty
Act, 1890,
applied to
the Court.

37. The Colonial Courts of Admiralty Act, 1890,* shall apply to the Court.

Jurisdiction under the said Act shall not be exercised by a Deputy Commissioner unless with the previous consent of the High Commissioner, but such consent may be given generally or for a specified time in relation to a specified district.

The third sub-section of section 16 of the said Act (relating to rules of Court) shall apply as if the limits of this Order were a British Possession.

Probate.

Court to be
Court of
Probate.

38. The Court shall be a Court of Probate, and as such shall, as far as circumstances admit, have, for and within its jurisdiction, with respect to the property of persons subject to the jurisdiction of the Court appearing to the Court to have at the time of death their fixed places of abode in the jurisdiction of the Court, all such jurisdiction as for the time being belongs to any Court exercising probate jurisdiction in England.

Probate or administration granted by a Court shall have effect over all the property of the deceased within the jurisdiction, and shall effectually discharge persons dealing with an executor or administrator thereunder, and that notwithstanding any defect afterwards appears in the grant.

Such a grant shall not be impeachable by reason only that the

* 53 & 54 Vict. c. 27.

deceased had not at the time of his death his fixed place of abode within the jurisdiction.

39. Any person having in his possession or under his control any paper or writing of a deceased person subject to the jurisdiction of the Court being or purporting to be testamentary, shall forthwith deliver the original to the Court and deposit it there.

Testamen-
tary papers
to be de-
posited in
Court.

Any person neglecting to do so for fourteen days after having knowledge of the death of the deceased shall be liable to such penalty, not exceeding 50*l.*, as the Court thinks fit to impose.

40. From the death of a person subject to the jurisdiction of the Court, having at the time of death his fixed place of abode in the jurisdiction of a Court, intestate, until administration granted, his personal property in the jurisdiction of the Court shall be vested in the judge of the Court.

Property of
intestate to
be vested in
judge until
administra-
tion.

41. If any person other than a Commissioner or officer of the Court, takes possession of or in any manner administers any part of the personal property of any person deceased without obtaining probate or administration within three months after the death of the deceased, or within one month after the termination of any suit or dispute respecting probate or administration (if there is any such which is not ended within two months after the death of the deceased), he shall be liable to such penalty, not exceeding 100*l.*, as the Court having jurisdiction in the matter of the property of the deceased thinks fit to impose; and in every such case the same fees shall be payable by the person so administering as would have been payable by him if he had obtained probate or administration.

Penalty on
administer-
ing without
probate.

42. Where a person subject to the jurisdiction of the Court not having at the time of death his fixed place of abode in the jurisdiction of a Court dies there, the Court within whose jurisdiction he dies shall, where the circumstances of the case appear to the Court so to require, forthwith on the death of the deceased, or as soon after as may be, take possession of his personal property within the jurisdiction, or put it under the seal of the Court (in either case, if the nature of the property or other circumstances so require, making an inventory), and so keep the property until it can be dealt with according to law.

Taking
possession of
property of
deceased.

43.—1. In a case of apparent intestacy, where the circumstances of the case appear to the Court so to require, for reasons recorded in the minutes, the Court may, if it thinks fit, of its own motion, or otherwise, grant administration to the judge or an officer of the Court.

Apparent
intestacy.

(2.) Any officer so appointed shall act under the direction of the Court, and shall be indemnified thereby.

(3.) A commission of 2½ per cent. on the gross value may be charged on an estate administered under this Article.

(4.) All expenses incurred on behalf of the Court in the execution of this Article and the said commission shall be the first charge on the personal property of the deceased in the district of the Court;

and the Court shall, by sale of part of that property or otherwise, provide for the discharge of those expenses and the payment of the said commission.

Property or
estate not
exceeding
100*l*.

44. Where it appears to the Court that the value of the property or estate of a deceased person does not exceed 100*l*., the Court may, without any probate or letters of administration, or other formal proceeding, pay thereout any debts or charges, and pay, remit, or deliver any surplus to such persons and in such manner as the High Commissioner from time to time directs, and shall not be liable to any action, suit, or proceedings in respect of anything done under this Article.

Probate and
administra-
tion granted
in the
United
Kingdom
how made
available.

45.—(1.) Where probate, administration, or confirmation is granted in England, Ireland, or Scotland, and therein, or by a memorandum thereon signed by an officer of the Court granting the same, the testator or intestate is stated to have died domiciled in England, Ireland, or Scotland (as the case may be), and the probate, administration, or confirmation is produced to, and a copy thereof is deposited with, the Court, the Court by a Judicial Commissioner shall write thereon a certificate of that production and deposit; and thereupon the probate, administration, or confirmation, shall, in respect of the personal property within the limits of this Order, of the testator or intestate, have the like effect as if he had been resident within the limits of this Order at his death, and probate or administration to his personal property there had been granted by the Court.

(2.) Any person who, in reliance on an instrument purporting to be a probate, administration, or confirmation granted in England, Ireland, or Scotland, and to bear such certificate of the Court, makes or permits any payment or transfer, in good faith, shall be, by virtue of this Order, indemnified and protected in respect thereof, within the limits of this Order, notwithstanding anything affecting the validity of the probate, administration, or confirmation.

Orders upon
executors or
administra-
tors for
performance
of duties.

46.—(1.) A person claiming to be a creditor or legatee, or the next of kin, or one of the next of kin, of a deceased person, may apply for and obtain a summons from the Court requiring the executor or administrator (as the case may be) of the deceased to attend before the Court and show cause why an order for the administration of the property of the deceased should not be made.

(2.) On proof of service of the summons, or on appearance of the executor or administrator, and on proof of all such other things (if any) as the Court thinks fit, the Court may, if it thinks fit, make an immediate order for the administration of the property of the deceased.

(3.) The Court shall have full discretionary power to make or refuse or postpone the making of any such order, or to give any special directions respecting the carriage or execution of it; and in the case of applications for such an order by two or more different persons or classes of persons, to grant the same to such one or more of the claimants, or classes of claimants, as the Court thinks fit.

(4.) If the Court thinks fit, the carriage of the order may subsequently be given to such person, and on such terms, as the Court thinks fit.

(5.) On making such an order, or at any time afterwards, the Court may, if it thinks fit, make any further or other order for compelling the executor or administrator to bring into Court, for safe custody, all or any part of the money or securities, or other property of the deceased, from time to time coming to his hands, or otherwise for securing the safe keeping of the property of the deceased, or any part thereof.

(6.) If the extreme urgency or other peculiar circumstances of the case appear to the Court so to require (for reasons recorded in the minutes), the Court may of its own motion issue such a summons and make orders and cause proper proceedings to be taken thereon.

Divorce.

47. The Court shall be a Court for matrimonial causes, and as such shall, as far as circumstances admit, have in itself with respect to residents subject to the jurisdiction of the Court all such jurisdiction as for the time being belongs to the High Court of Justice in England in matrimonial causes.

Jurisdiction under this article shall be exercised only by the High Commissioner or a Judicial Commissioner or the Supreme Court.

48. The Court, by a Judicial Commissioner, shall, as far as circumstances admit, have in itself exclusively, with respect to residents subject to the jurisdiction of the Court, all such jurisdiction relative to the custody and management of the persons and estates of persons of unsound mind as for the time being belongs to the Lord Chancellor or other person or persons in England entrusted, by virtue of the Queen's sign manual, with the care and commitment of the custody of the persons and estates of persons found by inquisition in England idiot, lunatic, or of unsound mind.

Part VI.—Criminal Law and Procedure.

49. The crimes punishable under this Order are :—

Crimes and offences.

(1.) Any acts or omissions which are for the time being punishable in England on indictment with death, penal servitude, or imprisonment, as treasons, felonies or misdemeanours.

(2.) Acts or omissions by this Order, or by any regulations made by virtue of this Order, declared to be punishable as offences against this Order.

50. In case an act or omission is punishable both as a crime under the law in force in England and as an offence against this Order, the accused person may be tried and punished for such act or omission either as a crime as aforesaid or as an offence against this Order, but he shall not be liable to be tried or punished in both ways.

Acts to be punishable both as crimes under English law and as offences against this Order.

Piracy.

51. Any person may be proceeded against, tried, and punished under this Order for the crime of piracy wheresoever committed.

Offences against this Order.

52. If any person subject to the jurisdiction of the Court does any of the following things without Her Majesty's authority, that is to say :—

Punishment
for levying
war, &c.

Levies war, or takes any part in any operation of war against, or aids or abets any person in carrying on war, insurrection, or rebellion against any king, chief, tribe, or power, every person so offending shall be deemed guilty of an offence against this Order, and, on conviction thereof, shall be liable (in the discretion of the Court before which he is convicted) to be punished by imprisonment for any term not exceeding two years, with or without hard labour, and with or without a fine not exceeding 1000*l.*, or by a fine not exceeding 1000*l.* without imprisonment, and any vessels, arms, munitions of war, stores, or other things used or provided for the purposes of an offence against this article may be seized, and may by any Court having cognisance of the offence be declared to be and thereupon shall be forfeited to Her Majesty.

Deportation.

In addition to such punishment, every such conviction shall of itself, and without further proceedings, make the person convicted liable to deportation, and the Court before which he is convicted may order that he be deported to such place as the Court directs.

53. A person shall be deemed guilty of an offence against this Order—

Violation of
treaties.

(1.) Who wilfully or knowingly acts in contravention of any treaty as defined in this Order, or of any regulations appended thereto.

Violation of
rules and
regulations.

(2.) Who acts in contravention of any of the Queen's Regulations to be made under this Order, or of any rules or regulations for the time being in force made under the authority of the recited Orders in Council.

Offences
against
religion.

(3.) Who, without reasonable and lawful excuse (proof of which shall lie on the accused person), endangers peace by disturbing any religious ceremony or observance, or publicly insulting any minister of any religion, or violating or insulting any place or object of religious worship, or doing any other act of a similar nature, whether in relation to any native or other form of religion or superstition.

54. A person shall be deemed guilty of an offence against this Order—

Who smuggles or imports into or exports from any place any goods with intent to avoid payment of any duty payable thereon to any recognised chief, or king, government, tribe, or people, or any goods the importation or exportation whereof (as the case may be) into such place is prohibited by any such chief, king, government, tribe, or people of such place.

Smuggling,
importation,
or exportation of
prohibited
articles.

A person convicted of an offence against this article shall be liable to imprisonment for any term not exceeding three months, or fine not exceeding 50*l.*, or both of those punishments; and any goods smuggled or imported in contravention of this article may, on conviction of the offender, or if he absconds or evades trial, be declared forfeited to Her Majesty, together with any ship, boat, cask, case, or receptacle wholly or partly belonging to the offender, and containing such goods.

55. If any person subject to the criminal jurisdiction of the Court does any of the following things, namely :—

Obstruction,
disturbance,
and contempt
of Court.

- (1) Wilfully by act or threat obstructs any officer or person executing any process of the Court in the performance of his duty ; or
- (2) Within or close to the room or place where the Court is sitting wilfully misbehaves in a violent, threatening, or disrespectful manner to the disturbance of the Court, or to the intimidation of suitors or others resorting thereto ; or
- (3) Wilfully insults any member of the Court, or any assessor, or any person acting as a clerk or officer of the Court during his sitting or attendance in Court, or in his going to or returning from Court ; or
- (4) Does any act in relation to the Court or a Judge thereof, or a matter pending therein, which, if done in relation to a Superior Court in England, would be punishable as a contempt of such Court, or as a libel on such Court or the judges thereof, or the administration of justice therein ;

such person shall be liable to be apprehended by order of the Court with or without warrant, and on inquiry and consideration, and after the hearing of any defence which such person may offer, without further process or trial, to be punished with a fine not exceeding 10*l.*, or with imprisonment not exceeding 24 hours. A minute shall be made and kept of every such case of punishment, recording the facts of the offence and the extent of the punishment, and a copy of the minute shall be forthwith sent to the High Commissioner.

Provided that, if the Court thinks fit, instead of proceeding under the preceding provisions, it may direct or cause the offender to be tried in a separate criminal prosecution or proceeding in which the offender shall be liable to be tried and punished for his offence as an offence against this Order.

Nothing herein shall interfere with the power of the Court to remove or exclude persons who interrupt or obstruct the proceedings of the Court.

Acts or publications occasioning danger to public order.

56. If any person subject to the criminal jurisdiction of the Court does any act or makes any publication of such kind, and under such circumstances, that, in the opinion of the Court, grave danger to public order is thereby occasioned, the Court shall have the same powers as it has in relation to apprehended breaches of the peace.

Misconduct of officers of the Court.

57. If any clerk or officer of the Court, acting under pretence of the process or authority of the Court, is charged with extortion or with not duly paying any money levied, or with other misconduct, the Court may (without prejudice to any other liability or punishment to which the clerk or officer would, in the absence of the present provision, be liable) inquire into the charge in a summary way, and for that purpose summon and enforce the attendance of all necessary persons in like manner as the attendance of witnesses and others may be enforced in a suit, and may make such order thereupon for the repayment of any money extorted, or for the due payment of any money levied, and for the payment of such damages and costs as the Court thinks just; and the Court may also, if it thinks fit, impose such fine upon the clerk or officer, not exceeding 100*l.* for each offence, as seems just.

Support of wife and child.

58. The Court shall have jurisdiction to make an Order requiring a person to contribute in such manner as the Court directs to the support of his wife or child, whether legitimate or not, being, in the opinion of the Court, under the age of 16 years. Any such Order may be made in a summary way, as if the neglect to provide for the support of such wife or child were an offence against this Order, and a failure to comply with any such Order shall be deemed to be an offence against this Order, and shall be punishable accordingly, and the Court may direct any penalty imposed for such offence to be applied for the support of such wife or child in such manner as the Court thinks fit.

Punishment of offences where no penalty, &c., is specified.

59. Where any act or omission is by virtue of this Order, or of any regulation made under this Order, an offence against this Order, and no penalty or punishment is specified in respect thereof, such offence shall be punishable with imprisonment for not exceeding six months, or fine not exceeding 100*l.*, or both.

Criminal Procedure.

Power to apprehend and try any person within and subject to the jurisdiction.

60. The Court may cause to be apprehended and brought before it any person within and subject to the jurisdiction of the Court and charged with having committed a crime triable by the Court, and may deal with the accused according to the jurisdiction of the Court and in conformity with the provisions of this Order; or where the crime is triable, and is to be tried in Her Majesty's dominions, may take the preliminary examination, and commit

the accused for trial, and cause or allow him to be taken to the place of intended trial.

61.—(1.) Where a person subject to the criminal jurisdiction of the Court is charged with an offence on a summons or warrant issuing out of the Court, he shall be brought before the Court within 48 hours after service of the summons or execution of the warrant, unless in any case circumstances unavoidably prevent his being brought before the Court within that time, which circumstances shall be recorded in the minutes. Offenders to be tried within reasonable time.

(2.) In every case he shall be brought before the Court as soon as circumstances reasonably admit, and the time and circumstances shall be recorded in the minutes.

62.—(1.) Where an accused person is in custody, he shall not be remanded at any time for more than seven days, unless circumstances appear to the Court to make it necessary or proper that he should be remanded for a longer time, which circumstances, and the time of remand, shall be recorded in the minutes. Remand.

(2.) In no case shall a remand be for more than 14 days at one time, unless in case of illness of the accused person or other case of necessity.

63. Except in cases of murder, an accused person may be admitted to bail at any stage of the proceedings. Bail.

64. Where an offence charged is one of the following, it shall be in the discretion of the Court to admit the accused to bail or not, according to the circumstances, namely :— Bail discretionary.

Felony (not being murder).

Riot.

Assault on an officer of the Court in the execution of his duty, or on any person acting in his aid.

Neglect or breach of duty by an officer of the Court.

65. In all other cases except murder the Court shall admit the accused to bail, unless in any instance the Court, having regard to the circumstances, see good reason to the contrary, which reason shall be recorded in the minutes. In cases other than murder.

66. Where a person is charged before a Court elsewhere than in Fiji with a crime punishable with death or penal servitude for seven years or upwards, the Court on being satisfied by information or evidence on oath that there is reasonable ground for putting such person upon his trial for such crime, shall, if arrangement can be made for his trial at or near the place where he is charged by a Judicial Commissioner arrange accordingly, or otherwise shall cause him to be removed for trial before the Supreme Court in Fiji, if the Court is satisfied that the attendance of the necessary witnesses for the prosecution and defence respectively in Fiji can be secured, but in any case other than as aforesaid shall commit him for trial. Removal for trial in cases of crimes punishable with death, or seven years' penal servitude.

In case a person is so removed for trial, the provisions of the

Foreign Jurisdiction Act, 1890,* section 6, or any enactment substituted for the same, shall be observed.

Where a person is, under, or by reason of, any provision of this Order, tried in Fiji or elsewhere in Her Majesty's dominions for an offence alleged to have been committed within the limits of this Order, the criminality of the alleged offence and the nature and amount of the punishment to which the person is liable shall be determined according to this Order, but in all other respects the trial shall be had and sentence passed and executed as if the offence had been committed at the place of trial and according to the ordinary course of law at that place.

Removal for trial in other cases.

67. In the case of any crime other than as in the last preceding article mentioned, and which is by the law administered in the Court punishable with imprisonment for twelve months or upwards, or with any greater punishment, it shall be in the discretion of the Court, regard being had to all the circumstances of the case, and in particular to the practicability of procuring the necessary witnesses for the prosecution and defence to attend at a trial elsewhere than within the jurisdiction of the Court, either to cause the accused person to be removed for trial as in the last preceding article mentioned, or to commit him for trial.

In the case of any such crime, where it appears to the Court at any time before the trial that the charge, if proved, would be adequately punished by a sentence either of imprisonment for a term not exceeding six months, with or without hard labour, or of a money penalty not exceeding 50*l.*, the Court, if it thinks fit, may try the case summarily, with or without assessors.

Trial under Articles 66 and 67 to be with assessors.

68. A person tried elsewhere than in Fiji for a crime to which either of the two last preceding articles applies shall, if practicable, be tried by the Court with assessors, unless he consents to be tried summarily without assessors.

In other cases with, or summarily without assessors.

69. A person charged with a crime which is not punishable with imprisonment for 12 months or upwards, or with any greater punishment, or charged with an offence against this Order, shall be tried with assessors, or summarily without assessors, as the Court thinks fit.

Summary trial.

70. In every case in which a person is to be tried summarily without assessors, the court shall proceed to try him, without any commitment or other preliminary formality, forthwith or after such adjournment as may be proper for the purpose of obtaining evidence for the prosecution or defence, or for any other purpose.

Courts, &c., in allotting punishments, to have regard to amount and mode of punishment inflicted in England in like cases.

71.—(1.) Every Court and authority in imposing and inflicting punishments shall have regard, so far as circumstances admit and subject to the other provisions of this Order, to the punishments imposed by the law of England in like cases, and to the mode in which the same are inflicted in England.

(2.) The Court may in addition to or in lieu of any other punish-

* 53 & 54 Vict. c. 37

ment order any person convicted before it of any crime or offence to enter into a recognisance and find sureties to keep the peace or be of good behaviour or otherwise, and may, in default of compliance with the order, sentence such person to be imprisoned, for any period not exceeding six months.

72. The Court may order any person convicted before it of any crime or offence to pay all or any part of the expenses of or preliminary to his trial, and of his imprisonment or other punishment. Payment of expenses by offender.

Where it appears to the Court that any charge made before it is malicious, or is frivolous and vexatious, the Court may order all or any part of the expenses of the prosecution to be paid by the person making the charge. Payment of expenses by accuser.

In either of the two last-mentioned cases, the amount ordered to be paid shall be deemed a debt due to the Crown, and may, by virtue of the order, without further proceedings, be levied on the property of the person convicted or making the charge, as the case may be, or may be enforced by imprisonment for not exceeding one month or until payment. Recovery of expenses from offender or accuser.

73.—(1.) The Court may, if it thinks fit, order a person convicted of an assault to pay to the person assaulted, by way of damages, any sum not exceeding 20*l*. Assault, payment of damages.

(2.) Damages so ordered to be paid may be either in addition to or in lieu of a fine, and shall be recoverable in like manner as a fine.

(3.) The person convicted shall not be liable to an action for the assault.

74. If, on a trial, the Court is of opinion that the accused attempted to commit the offence with which he is charged, but did not complete it, he shall not be therefore acquitted, but the Court may find him guilty of the attempt, and may adjudge him to be punished as if he had been charged with the attempt. Offences attempted, but not completed.

He shall not be liable to be afterwards prosecuted for the offence.

75. If, on the trial of a person charged with robbery, the Court is of opinion that the accused committed an assault with intent to rob, but did not commit robbery, he shall not be therefore acquitted, but the Court may find him guilty of the assault, and may adjudge him to be punished as if he had been charged with the assault. Assault with intent to rob.

He shall not be liable to be afterwards prosecuted for the assault.

76. If, on a trial for any of the following offences, namely, burglary, or stealing in a dwelling-house, or breaking and entering and stealing in a shop, warehouse, or counting-house, or a building within the curtilage of a dwelling-house, or larceny, or feloniously receiving property stolen, embezzled, or otherwise feloniously taken, obtained, or disposed of, the facts proved authorise a conviction for one of those offences, not being the offence charged, the Court may find the accused guilty of that other offence, and may adjudge him to be punished as if he had been charged with that other offence. Burglary, &c., larceny, and receiving.

He shall not be liable to be afterwards prosecuted for that other offence.

Incitement to commit crime or offence.

77. If any person procures or endeavours to procure or incites any other person to commit a crime or offence, he shall be punishable on conviction in the same manner as if he were convicted of an attempt to commit that crime or offence. If the crime or offence is actually committed in pursuance of the procurement or incitement, both persons may be tried and punished for that crime or offence as principal offenders.

Prisons.

78. Sentences of imprisonment shall be carried into effect in such prisons and in such manner as the High Commissioner from time to time directs.

If no suitable prison, prisoner to be removed to Fiji.

If there be no such prison, or if, by reason of the condition of any such prison, or the state of health of the prisoner, or on any other ground, the Court thinks that the sentence ought not to be carried into effect in such prison, the prisoner shall, by warrant, be removed in custody to Fiji, there to undergo his sentence.

Hard labour.

Any sentence of imprisonment under this Order may be with or without hard labour, as the Court directs.

Sentence of death.

A sentence of death shall be carried into effect in Fiji.

Execution of a sentence in Fiji.

When a person is sent to Fiji for execution of a sentence of death or imprisonment the provisions of the 7th section of the Foreign Jurisdiction Act, 1890,* or any enactment substituted for the same shall be observed.

Prisons, gaolers, keepers, &c.

79. It shall be lawful for the Court, from time to time, by order or warrant, to appoint any vessel, building, or place specified in such order or warrant to be a prison for any purpose of this Order, either generally or in relation to a particular case, or for a limited time, and to appoint such persons as the Court thinks fit to be gaolers, keepers, or officers of any such prison.

Confirmation, remission, and review of sentences by High Commissioner.

80. The High Commissioner may remit or commute, in whole or in part, any sentence of the Court, and may suspend the execution of any sentence other than of the Court when held before a Judicial Commissioner.

In every case of sentence of death the minutes of the trial shall be transmitted to the High Commissioner, and the sentence shall not be carried into effect until confirmed by him.

When the Court held otherwise than before the High Commissioner or a Judicial Commissioner sentences a person to imprisonment exceeding six months, or fine exceeding 100*l.*, or in any other case if a Secretary of State by any general or particular instruction so directs, or if the High Commissioner so directs, the sentence shall be submitted to the Court of Appeal for review in the manner hereafter in this Order prescribed.

Review of sentences by superior Court.

81. Where a sentence is, under this Order, submitted for review, the Court shall transmit a copy of the minutes of the case, sealed with the seal of the Court, and the notes of evidence, with such observa-

* 53 & 54 Vict. c. 37.

tions as it thinks necessary, and the Court of Appeal shall return the minutes, with such instructions as they think fit to give, either as to findings of fact, or as to law, or as to mitigation or alteration of sentence, and the Court shall give effect to such instructions.

Pending the review of a sentence, the Court may suspend the Bail. execution of the sentence, but is not obliged so to do unless so directed by the Court of Appeal, or by a Secretary of State or the High Commissioner. In either case the Court may (unless otherwise directed) take such security, by way of bail or otherwise, and if necessary by commitment to prison for safe custody, as it thinks necessary for submission to the ultimate sentence.

82. Where a person charged with having committed a crime or offence in the jurisdiction of one district Court escapes or removes from that jurisdiction, and is found within the jurisdiction of another Court, the Court within the jurisdiction of which he is found may proceed in the case to examination, indictment, trial, and punishment, or in a summary way (as the case may require), in the same manner as if the crime or offence had been committed in its own jurisdiction; or may, on the requisition or with the consent of the Court of the jurisdiction in which the crime or offence is charged to have been committed, send him in custody to that Court, or require him to give security for his surrender to that Court, there to answer the charge and be dealt with according to law.

Accused escaping to another district may be tried in that district, or be remitted to Court of district where offence was charged.

Where any person is to be sent in custody a warrant shall be issued by the Court within the jurisdiction of which he is found, and such warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person therein named, and to carry him to and deliver him up to the Court of the jurisdiction within which the crime or offence was committed according to the warrant.

Warrant in last case mentioned.

83. Where a warrant or order of arrest is issued by a competent authority in Her Majesty's dominions for the apprehension of any person within and subject to the jurisdiction of the Court who is charged with having committed a crime or offence within the jurisdiction of the authority issuing the warrant or order and who is, or is supposed to be, in the jurisdiction of a Court, and the warrant or order is produced to the Court, the Court may back the warrant or order; and the same, when so backed, shall be sufficient authority to any person to whom the warrant or order was originally directed, and also to any constable or other officer of the Court by which it is backed, to apprehend the accused at any place where the Court by which the warrant or order is backed has jurisdiction, and to deliver him on board any ship into the custody of any person having authority to receive and carry him in custody to Her Majesty's dominions.

Court may back warrant or order of arrest issued in British dominions.

84.—(1.) In cases of murder or manslaughter, if either the death or the criminal act which wholly or partly caused the death happened within the jurisdiction of a Court acting under this

Murder and manslaughter.

Order, such Court shall have the like jurisdiction over any person subject to the jurisdiction of the Court who is charged either as the principal offender or as accessory before the fact to murder, or as accessory after the fact to murder or manslaughter, as if both such criminal act and the death had happened within such jurisdiction.

Crimes on the high seas, or within Admiralty jurisdiction.

(2.) In the case of any crime committed on the high seas, or within the Admiralty jurisdiction, by any person on board a British ship, or any British subject on board a foreign ship to which he did not belong, a Court acting under this Order shall have jurisdiction as if the crime had been committed within the district of such Court. In cases tried under this provision no different sentence can be passed from the sentence which could be passed in England if the crime were tried there.

Application of the Admiralty Offences (Colonial) Acts, 1849, 1860, and of the Merchant Shipping Act, 1867.

(3.) The foregoing provisions of this Article shall be deemed to be adaptations for the purposes of this Order and of the Foreign Jurisdiction Act, 1890,* or any Act substituted for the same, of the following enactments described in the first schedule to that Act (that is to say) :—

The Admiralty Offences (Colonial) Act, 1849.†

The Admiralty Offences (Colonial) Act, 1860.‡

The Merchant Shipping Act, 1867,§ section 11.

And the said enactments shall, so far as they are repeated and adapted by this Article (but not further or otherwise), extend to all places within the limits of this Order.

Application of the Fugitive Offenders Act, 1881.

85. The Fugitive Offenders Act, 1881,|| shall apply to the limits of this Order as if such limits were a British possession, subject to the provisions following, that is to say :—

(1.) The High Commissioner or a Judicial Commissioner or a Deputy Commissioner is, for the purposes of the said Act, substituted within the limits of this Order, for the governor of a British possession and for a superior court in a British possession or a judge thereof, and for a magistrate or justice of the peace in a British possession.

(2.) The 4th, 5th, and 6th sections of the said Act shall, within the limits of this Order, be subject to the following qualifications :—

(a.) Any report under the 4th section shall be made to the High Commissioner, or if the provisional warrant under that section is issued by him, no such report shall be made ;

(b.) Any certificate or report under the 5th section shall be sent to the High Commissioner, or if the committal is made by him, no such certificate or report shall be sent ;

(c.) So much of the 5th section as relates to the information to be given by the magistrate to

* 53 & 54 Vict. c. 37.
§ 30 & 31 Vict. c. 124.

† 12 & 13 Vict. c. 96.
|| 44 & 45 Vict. c. 69.

‡ 23 & 24 Vict. c. 122.

a fugitive shall be excepted, and in lieu of such information the person acting as the magistrate shall inform the fugitive that in Fiji or any other British possession to which he may be conveyed, he has the right to apply for a writ of habeas corpus or other like process.

- (d.) So much of the 6th section as requires the expiration of 15 days before the issue of a warrant shall be excepted ;
- (3.) Before the issue of a warrant for the return of a fugitive to a British possession, evidence may be required that the proceedings to obtain such return are taken with the consent of the governor of that possession.
- (4.) For the purposes of Part II. of the said Act the whole of the limits of this Order and Fiji shall be deemed to be one group of British possessions, and any particular district constituted under this Order shall be deemed to be a British possession in such group.
- (5.) The expression “offence punishable on indictment” in the said Act, includes any offence for which imprisonment for six months or upwards can be inflicted under this Order or under the laws in force in a British possession to which this Article applies.

The foregoing provisions of this Article shall be deemed to be adaptations for the purposes of this Order, and of the Foreign Jurisdiction Act, 1890,* or any Act substituted for the same, and of the Fugitive Offenders Act, 1881.†

86. The Colonial Prisoners Removal Act, 1884,‡ shall apply to the limits of this Order as if the same were a British possession and part of Her Majesty’s dominions, subject as follows :—

The High Commissioner shall be substituted for the Governor of a British possession.

87. Nothing in this Order shall be deemed to affect Her Majesty’s prerogative of pardon.

Part VII.—Appeals.

88. In civil matters an appeal shall lie from a Court to the Court of Appeal by the leave of the Court, or without such leave where leave is given by the Court of Appeal.

The appeal shall be brought within such time and in such manner, as regards the form and transmission of the appeal, and as to stay of execution and otherwise, as may be prescribed by any rules of procedure made under this Order, or as in any case by any special leave or order the said Court of Appeal may direct.

* 53 & 54 Vict. c. 37. † 44 & 45 Vict. c. 69. ‡ 47 & 48 Vict. c. 31.

Court may state case for opinion of superior Court.

A Court may, before deciding any civil matter, state a case in writing for the opinion of the Court of Appeal, and shall give effect to such opinion, and when a case has been so stated, no appeal shall be brought against the decision of the Court in conformity therewith unless by leave of the Court of Appeal.

Procedure on appeal.

As regards matters not provided for by this Article, the procedure on appeal in the Court of Appeal may be the same as the ordinary procedure of that Court upon the hearing of any application for a new trial, or upon a case stated or reserved for the opinion of the Court, and the judgment or order of such Court in the appeal shall be certified under its seal to the Court which shall give effect thereto.

Ultimate appeal to Her Majesty's Privy Council.

The decision of a Court of Appeal under this Order shall be subject to appeal to Her Majesty in Council, in the same manner and on the same conditions as to the amount involved and otherwise as any other decision of the same Court of Appeal.

Part VIII.—Evidence.

Evidence in civil and criminal cases. Witnesses.

89.—(1.) In any case, criminal or civil, and at any stage thereof, the Court, either of its own motion, or on the application of any party, may summon any person subject to the jurisdiction of the Court to attend to give evidence, or to produce documents, or to be examined.

Default of attendance by person summoned.

(2.) If the person summoned, having reasonable notice of the time and place at which he is required to attend, fails to attend and be sworn, and give evidence, or produce documents, or submit to examination accordingly, and does not excuse his failure to the satisfaction of the Court, he shall be guilty of an offence against this Order.

Person punished under this Article not liable to further action.

(3.) A person punished under this Article shall not be liable to an action in respect of the same matter; and any such action, if begun, shall be stayed by the Court in such manner and on such terms as the Court thinks fit.

Evidence in criminal cases. Witnesses.

90.—(1.) In a criminal case, where it is proved that a person subject to the jurisdiction of the Court is likely to give material evidence, either for the prosecution or for the defence, and that he will not voluntarily attend to give evidence, the Court may issue a summons for his attendance.

Failure to obey summons.

(2.) If he does not obey the summons, and does not excuse his failure to the satisfaction of the Court, then, after proof of service of the summons, the Court may issue a warrant to compel his attendance.

Issue of warrant.

(3.) Where it is proved that he will not attend to give evidence unless compelled to do so, the Court may issue a warrant in the first instance.

Expenses of witnesses in civil cases.

91. In civil cases any Court may, where the circumstances appear to justify it, order that the expenses of a witness, on his appearing to give evidence, shall be defrayed by the parties or any of them.

92. Any person appearing before a Court to give evidence in Examination any case, civil or criminal, may be examined or give evidence on on oath. oath in the form, or with the ceremony, that he declares to be binding on his conscience.

93. Any person subject to the jurisdiction of the Court wilfully Perjury. giving false evidence in any suit or proceeding, civil or criminal, or on any arbitration, or in any affidavit, shall be deemed guilty of wilful and corrupt perjury.

94. Judicial notice shall be taken of this Order, and of the com- Judicial mencement thereof, and of the appointment of any Commissioner notice to be taken of the Order, &c. or Deputy or Assistant Commissioner or other officers, and of the constitution and limits of any jurisdiction, Court, or district, and of judicial or official seals and signatures, and of any Rules or Regulations made or in force under this Order, and no proof shall be required of any of such matters.

95. Every signature or seal affixed to any instrument purporting to be the signature of any officer or person acting under this Order, as to or to be the seal of any of Her Majesty's Courts, shall, for all pur- genuineness of signatures and seal. poses under this Order, without any proof thereof, be presumed to be genuine, and shall be taken as genuine until the contrary is proved.

96. A person attending to give evidence before the Court, or Giving of the Court of Appeal, shall not be compelled or allowed to give evidence, or produce any document if, in the opinion of the High Commissioner signified by him personally or in writing affecting Her Majesty's service. to the Court, the giving or production thereof would be injurious to Her Majesty's service.

97.—(1.) The provisions of the Evidence Act, 1851, 14 & 15 Application of Evidence. &c., Acts. Vict. c. 99, sections 7 and 11, relating to the proof of judicial and other documents, shall extend and be applied for all purposes as if the limits of this Order were a British Colony.

(2.) The following Acts, namely—

The Foreign Tribunals Evidence Act, 1856,*

The Evidence by Commission Act, 1859,†

The Evidence by Commission Act, 1885,‡

or so much thereof as is for the time being in force, and any enactment for the time being in force amending, or substituted for, the same, are hereby extended to all places and Courts to which this Order applies, with the adaptations following, namely,—

In the said Acts the Court is hereby substituted for a Supreme Court or a judge of a Court in a Colony.

(3.) The following Acts, namely—

The British Law Ascertainment Act, 1859,§

The Foreign Law Ascertainment Act, 1861,||

or so much thereof as is for the time being in force, and any enactment for the time being in force amending or substituted for the Application of British and Foreign Law Ascertainment Acts.

* 19 & 20 Vict. c. 113.

† 22 & 23 Vict. c. 63.

‡ 22 Vict. c. 20.

|| 24 & 25 Vict. c. 11.

‡ 48 & 49 Vict. c. 74.

same are hereby extended to all places and Courts to which this Order applies, with the adaptations following, namely,—

In the said Acts the Court is hereby substituted for a Superior Court in a Colony.

Part IX.—Assessors.

Assessors,
number,
qualification,
and functions.

98. Where a Court proceeds, in pursuance of this Order, to hear and determine any case, civil or criminal, with assessors, the Court shall nominate and summon as assessors not less than two and not more than four indifferent persons subject to the jurisdiction of the Court, of good repute, resident in the district of the Court or belonging to a British ship.

Where, however, by reason of local circumstances, the Court is able to obtain the presence of one fit person only as assessor, the Court may sit with him alone as assessor; and where, for like reasons, the Court is not able to obtain the presence of any fit person as assessor, the Court may (notwithstanding anything in this Order) sit without an assessor; but in every such case the Court shall record in the minutes of proceedings its reasons for sitting with one assessor only, or without an assessor.

An assessor shall not have voice or vote in the decision of the Court in any case, civil or criminal; but an assessor dissenting in a civil case from any decision of the Court, or in a criminal case from any decision of the Court, or the conviction, or the amount of punishment awarded, may record in the minutes of proceedings his dissent and the grounds thereof; and an assessor dissenting shall be entitled to receive gratis a certified copy of the minutes.

Cases which
may be
heard with-
out assessors.

99. Where a suit relates to money, goods, or other property of a less amount or value than 300*l.*—and does not relate to or involve, directly or indirectly, a question respecting any matter at issue of the amount or value of 300*l.* or upwards—and is not brought for recovery of damages of a greater amount than 300*l.*—the Court may hear and determine the case without assessors.

Other civil
cases must
be heard with
assessors, if
obtainable.
Punishment
of assessors
for non-
attendance.

In all other civil cases the Court (subject to the provisions of this Order respecting inability to obtain an assessor) shall hear and determine the case with assessors.

100. If any person summoned to act as assessor fails, without lawful excuse, to attend at the trial, or at any adjournment thereof, or to continue to serve throughout the trial, he shall be liable, under a summary order of the Court, to a fine not exceeding 10*l.*, to be levied by attachment and sale of his goods within the district, and in default of recovery thereby of the fine, to be imprisoned for any time not exceeding six days, if the fine is not sooner paid.

Part X.—Rules of Procedure.

101. The High Commissioner, with the assent of a Judicial Commissioner, may from time to time frame rules for any purpose for which it is in this Order expressed or implied that rules of procedure or practice are to be made, and the execution of judgments or orders, and for the regulation of appeals in civil and in criminal cases, and of rehearings, and generally for the purpose of making any provision proper or necessary for the proper or effectual exercise of the jurisdiction of Courts under this Order, and may thereby impose reasonable penalties, and may provide for the enforcement of any judgment or order by imprisonment for not exceeding one month.

Rules affecting the conduct of civil suits shall be so framed as to secure, as far as may be, that cases shall be decided on their merits according to substantial justice, without excessive regard to technicalities of pleading or procedure, and without unnecessary delay.

Rules framed under this Article shall have effect unless and until they are disapproved by a Secretary of State, and notification of such disapproval is received and published by the High Commissioner.

The rules, regulations, and forms contained in the Schedule to this Order may be used with such modifications as circumstances require, and shall be deemed to have been duly made and approved under this Order, but may be altered * in the same manner as other rules made under this Order.

102. Provision may, amongst other things, be made by rules under this Order authorising the Court to grant and enforce search warrants, and to enforce awards, and to enforce by distress, or by attachment or commitment, judgments or orders of the Court, or payment of any damages, costs, penalties, fines, or forfeitures, and for the sale of things forfeited, and for garnishee process, and for attachments of property in order to compel appearance or submission to the jurisdiction or process of the Court, and authorising the Court to compel, by fine, distress, or recognisance, or in default of security by commitment, the attendance of witnesses before the Court, or before a Colonial or English Court to which a case is sent for trial, and to fix and enforce the fees to be taken in respect of any proceedings under this Order,* and to take and transmit depositions of witnesses for use at trials in a Colony or in England, and to appoint forms of indictment or charge in criminal proceedings: Provided that the scales of all fees fixed under the provisions of this Order shall have been sanctioned by the Commissioners of Her Majesty's Treasury.

103. The Scale of Fees contained in the Schedule to this Order shall be deemed to have been duly fixed and sanctioned under this Order, but may be altered in the same manner as other fees fixed under this Order.*

104. A copy of the rules for the time being in force shall be kept exhibited conspicuously in each Court-house.

* See the additional fees referred to in the footnotes at p. 572.

Printed copies shall be provided and sold at such reasonable price as the High Commissioner from time to time directs.

Breach of rules.

105. No penalty shall be enforced in any Court for the breach of any rule until the rule has been so exhibited in the Court for one month, unless the person offending is proved to have had express notice of the rule.

Evidence of approval, &c., of rules.

106. A printed copy of any rule, purporting to be certified under the hand of the High Commissioner or Judicial Commissioner, shall be for all purposes conclusive evidence of the due framing, approval, and publication of the contents thereof.

Revocation of existing rules and regulations.

107. From and after the commencement of any rules made under this Order, all rules and regulations theretofore in force in respect of the same matters in respect whereof rules are made under this Order shall cease to operate.

Part XI.—Treaties and Queen's Regulations.

Power of High Commissioner to make, alter, and revoke regulations for—
Observance of treaties.

108. The High Commissioner shall have power to make, alter, and revoke regulations (to be called Queen's Regulations) for the following purposes (that is to say):—

Maintenance of order.

Trade returns.

Superintendence, &c., of prisons.
Registration of British subjects.

- (1.) For securing the observance of any treaty for the time being in force relating to any place to which this Order applies, or of any native or local law or custom whether relating to trade, commerce, revenue, or any other matter.
- (2.) For the peace, order, and good government of persons subject to the jurisdiction of the Court within the limits of this Order in relation to matters not provided for by this Order, including the prohibition and punishment of acts tending to disturb the peace between native chiefs, tribes, or populations.
- (3.) For requiring returns to be made of the nature, quantity, and value of articles exported from or imported into any place within which jurisdiction is for the time being exercised under this Order, or any part thereof by or on account of any person subject to the jurisdiction of the Court, or in any British ship, and for prescribing the times and manner at or in which, and the person by whom, such returns are to be made.
- (4.) For the governance, visitation, care, and superintendence of prisons.
- (5.) For registration of British subjects in accordance with the provisions of this Order, and prescribing the Court in which such registration is to be made.

Any regulations under this Article may provide for forfeiture of any goods, receptacles, or things in relation to which, or to the contents of which, any breach is committed of such regula-

tions, or of any treaty or any native or local law or custom, the observance of which is provided for by such regulations.

Any regulations made under this Article shall be published in the like manner in which this Order is herein directed to be published, and shall from and after the expiration of one month from the commencement of such publication, and thereafter, until disallowed by a Secretary of State, have effect as if contained in this Order.

Publication of regulations.
Disallowance of regulations by Secretary of State.

Any rules or regulations heretofore made under the authority of any Order in Council repealed by this Order, and which are in force at the time of the commencement of this Order, and which are not expressly repealed by this Order, shall, notwithstanding the repeal of that Order, continue in force until revoked by the High Commissioner, but shall be subject to the provisions of this Order, and so far as they are inconsistent with any provision of this Order, or with any regulations or rules made under this Order, this Order, and any regulations or rules made under it, shall have effect.

Rules and regulations made under other Orders.

A breach of any such regulations shall be deemed to be an offence against this Order, and shall be punishable accordingly in addition to any forfeiture as aforesaid.

Breach of regulations to be an offence against this Order.

Parts XII.—*Foreigners and Foreign Courts.*

Suits by or against Foreigners.

109.—(1.) Where a foreigner desires to institute or take a suit or proceeding of a civil nature against a British subject, or a British subject desires to institute or take a suit or proceeding of a civil nature against a foreigner, the Court may entertain the suit or proceeding, and hear and determine it (and if all parties desire, or the Court directs a trial with assessors, then with assessors) at a place where such a trial might be had if all parties were British subjects, and in all other respects according to the ordinary course of the Court.

Suits by or against foreigners.

(2.) Provided that the foreigner (i.) first files in the Court his consent to the jurisdiction of the Court ; and (ii.) also, if required by the Court, obtains and files a certificate in writing from a competent authority of his own Government, to the effect that no objection is made by that Government to the foreigner submitting in the particular cause or matter to the jurisdiction of the Court ; and (iii.) also, if required by the Court, gives security to the satisfaction of the Court, to such reasonable amount as the Court directs, by deposit of money or otherwise, to pay fees, costs, damages, and expenses, and to abide by and perform the decision to be given by the Court or on appeal.

Procedure.

(3.) A counter-claim or cross suit cannot be brought or instituted in the Court against a plaintiff, being a foreigner, who has submitted to the jurisdiction, by a defendant, except by leave of the Court first obtained.

Counter-claims and cross suits.

(4.) The Court, before giving leave, requires proof from the

defendant that his claim arises out of the matter in dispute, and that there is reasonable ground for it, and that it is not made for vexation and delay.

Defendant
may in-
stitute
separate suit
against the
foreigner.

(5.) Nothing in this Article prevents the defendant from instituting or taking in the Court against the foreigner, after the termination of the suit or proceeding in which the foreigner is plaintiff, any suit or proceeding that the defendant might have instituted or taken in the Court against the foreigner if no provision restraining counter-claims, or cross suits had been inserted in this Order. •

Stay of
Order where
cross suit
pending.

(6.) Where a foreigner obtains in the Court an order against a defendant, being a British subject, and in another suit that defendant is plaintiff and the foreigner is defendant, the Court may, if it thinks fit, on the application of the British subject, stay the enforcement of the order pending that other suit, and may set off any amount ordered to be paid by one party in one suit against any amount ordered to be paid by the other party in the other suit.

(7.) Where a plaintiff, being a foreigner, obtains in the Court an order against two or more defendants, being British subjects, jointly, and in another suit one of them is plaintiff and the foreigner is defendant, the Court may, if it thinks fit, on the application of the British subject, stay the enforcement of the order pending that other suit, and may set off any amount ordered to be paid by one party in one suit against any amount ordered to be paid by the other party in the other suit without prejudice to the right of the British subject to require contribution from his co-defendants under the joint liability.

Foreigner
co-plaintiff
with British
subject.

(8.) Where a foreigner is co-plaintiff in a suit with a British subject who is within the particular jurisdiction, it is not necessary for the foreigner to make deposit or give security for costs unless the Court so directs; but the co-plaintiff British subject is responsible for all fees and costs.

The foregoing provisions of this Article shall take effect only in places within the limits of the Order which are not British settlements or under the protection of Her Majesty.

Foreign Tribunals.

Court may
order at-
tendance of
persons sub-
ject to the
jurisdiction
before
foreign or
native
tribunals.

110.—(1.) Where it is shown to the Court that the attendance of any person subject to the jurisdiction of the Court to give evidence, or for any other purpose connected with the administration of justice, is required in a native or foreign Court, or before a native or foreign judicial officer, or in a Court, or before a judicial officer, of any State in amity with Her Majesty, the Court may, if it thinks fit, in a case and in circumstances in which it would require his attendance before itself, order that he do attend and give evidence and produce documents as so required. The order may be made subject to conditions as to payment or tender of expenses or otherwise.

(2.) If the person ordered to attend, having reasonable notice of the time and place at which he is required to attend, fails to attend accordingly, and does not excuse his failure to the satisfaction of the Court, or if he refuses to give evidence, or wilfully gives false evidence, or fails to produce documents which he is properly required to produce, he is, independently of any other liability, guilty of an offence against this Order, and for every such offence, on conviction thereof, by summary trial, is liable to a fine not exceeding 100*l.*, or to imprisonment for not exceeding one month in the discretion of the Court.

Failure to comply with Order of the Court.

Part XIII.—Deportation, Prohibition, and Removal.

111. (1.) Where a person is convicted before the Court of any crime or offence, the Court may, in addition to or in lieu of any other sentence, order him to give security to the satisfaction of the Court, by recognisance, deposit of money, or otherwise, for future good behaviour, and in default of such security may order him to be deported forthwith, or after undergoing any other sentence which may be passed upon him, to a place named in the order.

Deportation for crimes and offences.

(2.) The place shall be either in Fiji or in some other part of Her Majesty's dominions out of the United Kingdom the Government whereof have consented to the reception therein of persons deported under the provisions of this Order.

Place of deportation.

(3.) Where, upon or without any complaint or charge made, it appears to a Court that there is reason to believe that any person is about to commit a breach of the peace, or that his conduct is likely to produce or excite a breach of the peace, or that he is about to commit an offence against the Pacific Islanders Protection Acts, 1872 and 1875,* the Court may order him to give security as above-mentioned for peace and good behaviour, and in default may order him to be deported as aforesaid.

Deportation for apprehended breach of the peace.

(4.) An order for deportation shall be executed in the manner provided by this Order.

Execution of Order for deportation.

(5.) The Court, as part of an order for deportation, may order that the person to be deported pay all or any part of the expenses of his deportation, or an amount specified in the order.

Expenses of deportation.

(6.) A report of every order for deportation, stating the grounds thereof and the proceedings thereunder, shall forthwith be made to the High Commissioner (unless the order was made by him) and to a Secretary of State.

Report.

(7.) An order for deportation may be in the form set forth in the schedule hereto or to the like effect, and may be expressed to be in force for a time to be limited therein, or for an unlimited time.

Limit of time.

(8.) If a person deported returns within the limits of this Order while the order for deportation is in force, without the written consent of the High Commissioner or of a Secretary of State, which consent may be given subject to any terms as to security for good

Return of person deported without permission.

* 35 & 36 Vict. c. 19; 38 & 39 Vict. c. 51.

behaviour or otherwise, he is guilty of an offence against this Order, and in addition to any other punishment for such offence he may be deported on a fresh warrant under the original order or under a new order.

Remittance
of order of
deportation.
Prohibition,
Order for.

(9.) An order for deportation may at any time be remitted by the High Commissioner or by the Secretary of State.

(10.) Where it is shown by information on oath to the satisfaction of the High Commissioner that any British subject is disaffected to Her Majesty's Government, or that any person, subject to the jurisdiction of the Court has committed or is about to commit an offence against the Pacific Islanders Protection Acts, 1872 and 1875,* or is otherwise dangerous to peace and good order within the limits of this Order, the High Commissioner may, if he thinks fit, by order under his hand and official seal (herein referred to as an order of prohibition) prohibit that person from being within the limits of this Order or such part thereof as may be specified in the order of prohibition during any specified time not exceeding two years.

An order of prohibition may be in the form contained in the schedule to this Order, or to the like effect.

Report and
remittance.

A report of an order of prohibition, stating the grounds thereof, shall forthwith be made to a Secretary of State who may remit or alter the same.

Contraven-
tion of Order
offence
against this
Order

If a person against whom an order of prohibition is made acts in contravention thereof he is guilty of an offence against this Order, and in addition to or in lieu of any other punishment the Court before whom he is convicted of such offence may make an order for his deportation without making any order for giving security for peace and good behaviour.

No appeal.

(11.) No appeal shall lie from any order of deportation or prohibition.

Removal for
trial, &c.

112. Where a person is to be removed either for trial or for the execution of a sentence, or under an order of deportation, a warrant for the purpose shall be issued by the judge of the Court under his hand and seal, and the person may, under such warrant, be taken to and put on board of one of Her Majesty's ships, or some other fit ship, and shall be conveyed in such ship or otherwise to the place named in the warrant.

Custody
pending
removal.

Pending removal, the person shall, if the Court so orders, by indorsement on the warrant, be arrested and detained in custody or in prison until an opportunity for removal occurs.

Arrival at
place named
in warrant.

On arrival at the place named in the warrant, the person, if removed under an order of deportation, shall be discharged, or otherwise shall be handed over to the proper gaoler, constable, magistrate, or officer.

Warrant of
removal to
be sufficient
authority,
&c.

A warrant of removal is sufficient authority to the person to whom it is directed or delivered for execution, and to the person in command of any ship, and to every person acting under the warrant or in aid of any such person, to take, receive, detain, convey, and

* 35 & 36 Vict. c. 19; 38 & 39 Vict. c. 51.

deliver the person named therein in the manner thereby directed, and generally is sufficient authority for anything done in execution or intended execution of the warrant.

A warrant of removal must be issued in duplicate, and the person executing it must, on arriving at the place named, deliver one of the duplicates with the prisoner to the proper gaoler, constable, magistrate, or officer.

Warrants to be issued in duplicate.

Part XIV.—Registration.

113. This part of this Order shall not be operative, except in relation to any island, district, or place herein referred to as a "registration district," in relation to which it is for the time being made operative by any Queen's Regulations made under this Order.

This part operative only in a "registration district."

114.—(1.) Every British subject resident in a registration district, being of the age of twenty-one years or upwards, or being married, or a widower or widow, though under that age, must, in every January, register himself at the prescribed Court.

Registration of British subjects.

(2.) Every British subject not resident in a registration district, arriving within a registration district, unless borne on the muster roll of a British or foreign vessel, must, within one month after arrival, register himself at the prescribed Court.

(3.) But this provision does not require any person to register himself oftener than once in a year, beginning 1st January.

(4.) The registration of a man comprises the registration of his wife, if living with him ; and

(5.) The registration of the head, male or female, of a family comprises the registration of all females, being relatives of such head, in whatever degree, living under the same roof with him at the time of his registration.

(6.) The Court shall yearly give to each person registered a certificate of registration, sealed with its seal.

(7.) The name of a wife, if her registration is comprised in her husband's, shall, unless in any case the Court sees reason to the contrary, be indorsed on the husband's certificate.

(8.) The names and descriptions of females whose registration is comprised in that of the head of the family shall, unless in any case the Court sees reason to the contrary, be indorsed on the certificate of the head of the family.

(9.) Every person on every registration shall pay a fee of 2s. 6d.

(10.) The amount of the fee may be uniform for all persons, or may vary according to the position and circumstances of different classes, if the Secretary of State from time to time so directs, but may not in any case exceed 5s.

(11.) Every person by this provision required to register himself must, unless excused by the Court, attend personally for that purpose at the Court, on each occasion of registration.

(12.) If any person fails to comply with the requirements of this Article, and does not excuse his failure to the satisfaction of the Court, he is guilty of an offence against this Order, and

shall be liable to a fine not exceeding 5*l.*, and any Court or authority may, if it thinks fit, decline to recognise him as a British subject.

Part XV.—Births, Marriages, and Deaths.

Past Marriages.

Certain marriages before commencement of this Order declared valid.

115. All marriages (between persons who would, if in England, be legally competent to contract marriage, and of whom one at least is a British subject) solemnized within the limits of this Order before the commencement of this Order by any minister of religion of any denomination of Christians duly appointed or ordained, or reputed to be duly appointed or ordained, shall be as valid in law as if the same had been solemnized within Her Majesty's dominions with a due observance of all forms required by law.

Certificate of such marriage receivable as evidence.

116. A certificate of the marriage, purporting to be signed by any minister of religion as aforesaid who solemnized the same, or a certified copy of such certificate, shall be received in all courts of law as evidence of such marriage at the date set forth in the said certificate.

Such marriages may be registered.

117. Any such marriage may be registered by producing the certificate of the minister of religion aforesaid to the High Commissioner at any time within two years after the commencement of this Order; and the High Commissioner shall register the same, and shall add the date when solemnized, together with the words, "valid from the date of solemnization under the Pacific Order in Council, 1893"; and an extract from the register, signed by the High Commissioner, shall be received in all courts of law as evidence of the marriage as of the date so set forth in the register.

Extract from register receivable as evidence.

Celebration of Marriages.

Registration of ministers for marriages.

118. The High Commissioner, upon receiving a requisition from any minister of religion ordinarily officiating as such, or from the head of the denomination to which such minister belongs, stating that he is a British subject, specifying the religious denomination of such minister and his designation and usual place of residence, together with the place where he officiates, and desiring that he may be registered as a minister for celebrating marriages in the Western Pacific, shall forthwith without fee register the name of such minister, with the foregoing particulars, in a register book to be kept for that purpose.

Certificates.

119. The High Commissioner shall from time to time furnish every minister so registered with a sufficient number of forms of the marriage certificate hereinafter mentioned.

Persons pretending to be ministers.

120. If any person shall cause his name to be registered as a minister of religion ordinarily officiating as such, he being at the time not such a minister, he shall be deemed guilty of an offence against this Order.

121. Within the limits of this Order marriages between persons who would, if in England, be legally competent to contract marriages, and of whom one at least is a British subject, may be celebrated by a minister of religion ordinarily officiating as such, if he be a British subject, and if his name, designation, and usual place of residence, together with the place where he officiates, is at the time of the celebration of the marriage registered in the office of the High Commissioner.

Marriages may be celebrated by certain ministers of religion if registered.

122. If any minister so registered die or depart permanently from the limits of this Order, or cease to officiate within the said limits, or be by competent authority deprived of his office of minister, the High Commissioner, upon being satisfied of the facts, shall remove the name of such minister from the register.

Removal of minister's name from register.

123. The High Commissioner shall notify in the Fiji Government Gazette, or in some other public manner, the registration of every minister and the removal of the name of any minister from the register.

Notice of registration or removal.

124. No marriage shall be celebrated until each of the parties to the marriage shall have made the following declaration before the minister celebrating the marriage :—

Declaration precedent to marriage.

"I, A.B., of _____, do solemnly and sincerely declare that I believe there is no impediment or lawful objection, by reason of any kindred or relationship, any former marriage, or want of consent of parents or guardians, or any other lawful cause, to my being married to C.D., of _____, daughter of E.F., of _____."

(Signature of A.B.)

"And I, the said C.D., do solemnly and sincerely declare that I believe there is no impediment or lawful objection by any such reason or other lawful cause as aforesaid to my being married to the said A.B."

(Signature of C.D.)

Declared by both the parties above
named at _____ this _____
day of _____, 18____
before me, _____

(Signature and designation of minister.)

125. Any person who shall wilfully make any false statement in any such declaration shall be deemed guilty of an offence against this Order.

False declaration.

126. Every marriage celebrated by any such minister after declaration so made shall be as valid in law as if the same had been solemnized within Her Majesty's dominions with a due observance of all forms required by law.

Essentials for valid marriage.

127. No marriage, in fact, shall be avoided by reason only of the same having been celebrated by a person not being a duly registered minister if either of the parties to the marriage *bond fide* believes at the time that he was a duly registered minister.

Provision for special cases.

Witnesses
and certifi-
cate.

128. The presence of two witnesses at the least is requisite for the due celebration of a marriage, and the minister, the parties to the marriage, and the witnesses shall sign in duplicate a certificate in the following form :—

I [*minister*] being [*designation*] certify that I have this day at [*place*] duly celebrated marriage between [*name, designation, and residence of husband*] and [*name, designation, and residence of wife*], after declaration duly made as required by the Pacific Order in Council, 1893.

Dated this _____ day of _____, 18 ____
A.B. [*minister officiating at* _____].

Signature of parties.

C.D.

E.F.

Signature of witnesses.

G.H.

L.M.

The minister shall, immediately after the marriage, deliver one certificate to one of the parties to the marriage, and within one month thereafter, or by the first opportunity, shall transmit the other certificate to the High Commissioner.

Any such certificate purporting to be signed by the minister who solemnized the marriage shall be received in all courts of law as *prima facie* evidence of such marriage at the date set forth in the certificate.

Offences by
ministers.

129. If any minister—

(a.) celebrates a marriage knowing that he is not duly registered ;

(b.) fails to transmit to the High Commissioner the certificate of any marriage celebrated by him ;

he shall be deemed guilty of an offence against this Order.

Registration of Births, Marriages, and Deaths.

High Com-
missioner to
keep registers
of births,
marriages,
and deaths.

130. The High Commissioner shall keep books for the registry therein of births, marriages, and deaths of British subjects occurring within the limits of this Order, and shall, as soon as possible after being informed of any such birth, marriage, or death, enter the same respectively in the books in such manner as, subject to any direction of a Secretary of State, he may think convenient.

In the case of a death the High Commissioner shall, if possible, also enter the date and place of burial.

Copies of
entries to be
prima facie
evidence.

131. A copy of the entry of any birth, marriage, or death, signed by the High Commissioner, shall be received in all courts of law as *prima facie* evidence of the fact of such birth, marriage, or death. But no registry of any death shall be received as evidence of the fact of such death unless the burial of the person named be also registered.

132. Every person, on payment of the fees hereunder mentioned, and on stating in writing the particular entry which he desires to find, shall be entitled, at reasonable hours to be fixed by the High Commissioner, to search the books for such entry, and to have a copy of any such entry certified by the High Commissioner.

Search and
copies.

133. Every search (to be paid beforehand) five shillings.
Every certified copy of any entry, two shillings and sixpence.

Fees.

134. In every case of the birth of any child of a British subject within the limits of this Order, one of the parents shall, within 60 days thereafter, and in every case of the death of any British subject within the said limits the occupier of the house or place where the death occurred shall within 30 days thereafter, transmit to the High Commissioner a statement of the fact and date of such birth or death ; giving also, in the case of a birth, the names, and, as far as possible, particulars of the name, age, and birthplace of each parent, and the name of the child ; and, in the case of a death, the name, age, and parentage (if known) of the deceased, stating also, as far as known, whether the deceased was married, and to whom, and at what place, together with the names and ages of any children left by the deceased.

Notice of
births and
deaths.

The statement of a death must also include the date and place of burial of the deceased, verified, if possible, by the signatures of two witnesses present at the burial.

135. Upon the discovery of any error in the form or substance of any such entry, the High Commissioner shall correct the error by making and signing a new entry in the margin without altering the original entry, adding the date of the correction, and every certified copy of such entry shall show the original entry and the correction.

Correction
of accidental
errors.

136. If any person—

Offences.

- (a.) refuses or neglects to give any notice or information required by this part of this Order ;
- (b.) wilfully makes or causes to be made, for the purpose of being inserted in any register under this part of this Order, any false statement touching any of the particulars hereby required to be registered, he shall be deemed guilty of an offence against this Order.

Part XVI.—Official.

137. Except as in this Order expressly provided, nothing in this Order shall preclude any of Her Majesty's officers from performing any act, not of a judicial character, which Her Majesty's officers might by law or by virtue of usage or sufferance, or otherwise, have performed if this Order had not been made.

General
official
powers.

138. Whenever an acting Commissioner or deputy has commenced the hearing of any cause or matter, civil or criminal, he may, unless the High Commissioner otherwise directs, continue

Cases heard
by acting
Commissioners.

and complete the hearing and determination thereof, notwithstanding that his authority to act has otherwise ceased by reason of the expiration of the time for which he was appointed to act, or by reason of the happening of any event by which his authority is determined.

Suits, &c.,
for things
done under
Order.

139. Any suit or proceeding shall not be commenced in any of Her Majesty's Courts against any person for anything done or omitted in pursuance or execution or intended execution of this Order, or of any regulation or rule made under it, unless notice in writing is given by the intending plaintiff or prosecutor to the intended defendant one clear month before the commencement of the suit or proceeding, nor unless it is commenced within three months next after the act or omission complained of, or in case of a continuation of damage within three months next after the doing of such damage has ceased.

The plaintiff in any such suit shall not succeed if tender of sufficient amends is made by the defendant before the commencement thereof; and if no tender is made the defendant may, by leave of the Court at any time, pay into Court such sum of money as he thinks fit, whereupon such proceeding and order shall be had and made in and by the Court as may be had and made on the payment of money into Court in an ordinary suit.

Part XVII.—Fees and Expenses.

Application
of fees and
other
moneys.

140. All fees, fines, forfeitures, confiscations, and pecuniary penalties, and all commissions levied or received under this Order, shall be accounted for, paid, and applied as a Secretary of State, with the concurrence of the Commissioners of Her Majesty's Treasury, from time to time directs.

Expenses of
removal and
deportation
of prisoners.

Subject to the other provisions of this Order, all expenses of removal of prisoners and others, and the expenses of deportation, shall be defrayed in such manner as a Secretary of State, with the concurrence of the Commissioners of Her Majesty's Treasury, from time to time directs.

Part XVIII.—Supplemental.

Application
of provisions
of Imperial
Acts and
other Orders
in Council.

141. Where, by virtue of any Imperial Act, or of this Order or otherwise, any provisions of any Imperial Acts, or of any Law, or of any Orders in Council, other than this Order, are applicable within the limits of this Order, or any form, regulation, or procedure prescribed or established under any such Act or law, are, or is, so applicable, the same shall be deemed applicable so far only as the constitution and jurisdiction of the Courts acting under this Order and the local circumstances permit, and for the purpose of facilitating application may be construed or used with such alterations and adaptations as may be necessary, and anything required to be done by or to any Court, judge, officer, or authority,

may be done by or to a Court, judge, officer, or authority having the like or analogous functions, or by any officer designated by a Secretary of State, or by the Court (as the case may require) for that purpose, and the seal of the Court may be substituted for any other seal ; and in case any difficulty occurs in the application, it shall be lawful for a Secretary of State to direct by, and to whom, and in what manner, anything is to be done, and such Act, law, order, form, regulation, or procedure shall be construed accordingly.

Seal of the Court.
Power of Secretary of State to regulate procedure, &c.

142. Sums of money, fines, forfeitures, penalties, or fees payable under this Order shall be calculated and paid in English money, or, with the consent of the Court, in its equivalent in local currency or produce, or bills of exchange approved by the Court.

Fines, &c., to be paid in English money.

Part XIX.—Commencement, Publication, Repeals and Temporary Provisions.

143. From the commencement of this Order the recited Orders in Council shall be repealed, but this repeal shall not affect the past operation of those Orders, or any existing right, title, obligation, or liability, or the validity of any rules or regulations, or general orders or directions of a Secretary of State or High Commissioner made, given, or confirmed under those Orders, or revive anything thereby repealed, or affect the existence of any office or Court created by those Orders and continued by this Order, and any such rules, regulations, general orders, or directions in force at the commencement of this Order shall continue in force and have effect *mutatis mutandis*, except so far as they are inconsistent with this Order, until they are revoked or are superseded by new rules, regulations, general orders, or directions under this Order.

Orders repealed by this Order.

Provided that anything done before the commencement of this Order, which would have been valid if this Order had been in force, shall for all purposes be of the same validity as if it had been done within the Western Pacific Islands, as defined by the recited Orders in Council.

144. Nothing in this Order, or in any rules made under it, shall apply to, or in any manner affect, any suit or proceeding, either of a civil or of a criminal nature, pending at the commencement of this Order, either with reference to the original proceedings therein or with reference to any appeal therein, or otherwise, subject, nevertheless, as follows :—

Pending proceedings.

In any suit or proceeding, whether of a civil or of a criminal nature, the Court before which the same is pending at the commencement of this Order, after hearing the parties, or of its own motion, or on the application of either party, or by consent, may, if it sees fit, from time to time direct that the procedure and practice prescribed by this Order or by any rule made under it be followed in any respect.

145. This Order shall commence and have effect as follows :—

Commence-
ment.

- (1.) As to the making of any warrant or appointment under this Order, immediately from and after the date of this Order.
- (2.) As to the framing of rules of procedure or regulations and the approval thereof by one of Her Majesty's Principal Secretaries of State, immediately from and after the date of this Order.
- (3.) As to the repeal of former Orders, and as to all other matters and provisions comprised and contained in this Order, immediately from and after the expiration of one month after this Order is first exhibited in the public office of the High Commissioner; for which purpose he is hereby required forthwith, on receipt by him of a copy of this Order, to affix and exhibit the same conspicuously in his public office, and he is also hereby required to keep the same so affixed and exhibited during one month from the first exhibition thereof; and, notwithstanding anything in this Order, the time of the expiration of the said month shall be deemed to be the time of the commencement of this Order.
- (4.) Proof shall not in any proceeding or matter be required that the provisions of this Article have been complied with, either with respect to the publication of this Order, or with respect to the publication of Queen's Regulations, nor shall any act or proceeding be invalidated by any failure to comply with any of such provisions.

Publication
and sale of
Order.

146. A copy of this Order shall be kept exhibited conspicuously in each place where any Court sits under the provisions of this Order.

Printed copies shall be provided and sold at such reasonable price as the High Commissioner may fix.

And the Most Honourable the Marquess of Ripon and the Right Honourable the Earl of Rosebery, two of Her Majesty's Principal Secretaries of State, and the Lords Commissioners of the Treasury and the Lords Commissioners of the Admiralty, are to give the necessary directions herein as to them may respectively appertain.

C. L. Peel.

SCHEDULE referred to in foregoing Order in Council.

Rules and Regulations for procedure in Civil and Criminal Cases.*
(Under Part X. of the Pacific Order in Council of 1893.)

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(Expressions in these Rules and Regulations have the same meanings as in the Pacific Order in Council, 1893.)

Part A.—General.

Application of Part A.

The provisions in Part A. apply to all proceedings, civil and criminal.

1. Attendance of Witnesses.

(1.) In any proceeding, and at any stage thereof, the Court may summon a person subject to the jurisdiction of the Court to attend to give evidence or to produce documents. (Form A. 2.)

(2.) Any person subject to the jurisdiction of the Court present at any proceeding in Court may be required by the Court, if the Court thinks fit, to give evidence or to produce documents.

2. Witness' Oath or Declaration.

(1.) Each witness, before giving evidence, takes an oath, according to such ceremonies or in such form, as he deems binding on his conscience. In ordinary cases the form will be as follows :—"I swear that I will speak the truth, the whole truth, and nothing but the truth. So help me God."

(2.) But the Court, if satisfied in the case of an intended witness that the taking of an oath would not bind his conscience, may permit him, instead of taking an oath, to make a declaration that he will, in giving evidence, tell the truth, the whole truth, and nothing but the truth.

3. Oral Evidence.

(1.) Subject to the direction of the Court in any particular case, each witness, after examination, is subject to be cross-examined and re-examined. After re-examination he shall not be further questioned or re-called except through or by leave of the Court.

(2.) The Court may disallow any questions put in cross-examination which appear to the Court to be irrelevant, oppressive, or merely vexatious.

(3.) The Court takes a note of the substance of all the oral evidence given before it, in a narrative form, but putting down, if there appears reason for doing so, the terms of any particular question or answer.

(4.) Any objection to the reception of evidence shall be made at the time the evidence is offered, and shall be argued and decided at the time.

(5.) Where a question proposed to be put to a witness is objected to, the Court, unless the objection appears frivolous, shall, if required by either party, take a note of the question and objection, and mention on the notes whether the question was allowed to be put or not, and the answer to it, if put.

* These Rules, Forms, and Fees are subject to alteration under Art. 102, printed at p. 515 above. They are here printed as in force, December 31, 1903.

4. *Documentary Evidence.*

(1.) Every document tendered and admitted in evidence is put in and read.

(2.) Every document put in is marked by the Court at the time with a distinguishing letter or number, and is retained by the Court till the end of the preliminary examination or trial (as the case may be), when it is returned to the party who put it in, or from whose custody it came, unless the Court, for any reason, orders it to be detained in the custody of the Court.

(3.) In a civil case, where a person whose testimony would have been admissible is dead or insane, or, for any reason appearing sufficient to the Court, is not present to give evidence, the Court may, if it thinks fit, receive proof of any testimony given by him in any former civil judicial proceeding: Provided the subject matter of the former proceeding was substantially the same as that of the pending proceeding, and that the parties to the pending proceeding were parties to the former proceeding or bound by it, and had an opportunity in it of cross-examining the person of whose former testimony proof is to be so given.

5. *Assessors.*

(1.) Every Court makes, when required, a list of persons resident in the district who are qualified under Part IX. of the "Pacific Order in Council, 1893," to be assessors.

(2.) When the presence of assessors is likely to be required at any civil or criminal trial, the Court summons from among the persons whose names are on the list as many as it thinks necessary.

(3.) So far as is practicable, the persons liable to attend as assessors are summoned in regular order, according to the place of their names in the list.

(4.) The summons to a person to attend as assessor is in writing under the seal of the Court, and is served on him by being delivered to him personally, unless he is, at the time of service, absent from his usual place of abode, in which case it may be left for him there with some adult inmate. (Form A. 3.)

(5.) The Court may, on reasonable cause shown, excuse from attendance generally, or in any particular case, any person summoned, or liable to be summoned, as assessor, and may, for like cause discharge from attendance in any particular case any person who is acting as assessor therein.

(6.) If in the course of a trial one or more of the assessors is, or are prevented by sufficient cause from continuing to serve, the trial may, if the Court thinks fit, proceed with the aid of the remaining assessor or assessors, if any.

(7.) If in any case the sole assessor is, or all the assessors are, prevented from continuing to serve, the proceeding shall be stayed, and a new trial held with another assessor or assessors. But in a case of urgent necessity, or by consent of the parties or their agents, the Court may continue the trial, recording the fact and the reason for so acting in the minutes.

6. *Sealing.*

Every summons, judgment, order, notice, or other document issued from the Court is sealed with the seal of the Court, or signed as provided by Article 17.

7. *Minutes and File of Proceedings.*

(1.) In every case minutes of the proceedings at each stage are drawn up in writing, signed by the judge, and sealed with the seal of the Court, or signed as before mentioned.

(2.) The minutes are entered in a book and all other documents in the case are filed in a continuous file, called the file of proceedings.

(3.) The file of proceedings must be carefully preserved among the records of the Court.

(4.) The file and minutes of proceedings in any case are open to the inspection of the assessors engaged in that case, but may not be inspected by any other person except by order of the High Commissioner.

GENERAL FORMS (A).

Form A. 1.

(General Heading.)

(To be used in all Documents issued by the Court.)

Her Britannic Majesty's High Commissioner's Court for the Western Pacific.
Held at _____ under the Pacific Order in Council,
1893.

Civil Jurisdiction.

[or
Criminal Jurisdiction.]

With this addition in a Civil proceeding—

A. B. Plaintiff,
and

C. D. Defendant.

With this addition in a Criminal proceeding—

In the matter of a charge against A. B.

Form A. 2.

Summons to Witness.

(General Heading.)

To _____ of _____
You are required to attend this Court at _____
on the _____ day of _____ at _____
o'clock to give evidence in the above action (or, concerning the
above); [and you are required to bring with you (*specify documents*)].
(Seal.)

Form A. 3.

Summons to Assessor.

(General Heading.)

To _____ of _____
You are required to attend this Court at _____
on the _____ day of _____ at _____
o'clock, to act as assessor at the trial of the above action (or, of the above
charge) [or, generally, of certain actions (or, certain charges) then
appointed to be heard].
(Seal.)

Part B.—Civil.

8. *Application of Part B.*

The provisions in Part B. apply to civil proceedings only.

Civil Proceedings.

9. *Action ; Summons.*

- (1.) Civil proceedings are taken by action.
- (2.) For the purposes of any enactment or other provision applicable

under this Order to any civil proceeding in the Court, an action under this Order shall comprise and be equivalent to a suit, cause, or petition, or any civil proceeding, howsoever required by any such enactment or provision to be instituted or carried on.

(3.) An action is commenced by a summons.

(4.) A summons is a document in the Form B. 1, or some form to the like effect, which is issued from the Court on the application of the plaintiff. It contains a concise statement of the particulars of the plaintiff's claim, and gives the defendant notice of the time and place of trial.

10. *Cause-book.*

Every Court keeps a book called the cause-book, in which are entered all actions brought in that Court, numbered consecutively in each year, with a short statement of the particulars of each action, and a note of the several proceedings therein. (Form B. 2.)

11. *Joinder of Causes of Action.*

(1.) A plaintiff may unite in the same action several causes of action or complaint.

(2.) But the Court, if it thinks that such causes of action, or some of them, cannot be conveniently tried together, may order separate trials.

12. *Parties.*

(1.) All persons may join as plaintiffs in whom the right to any relief claimed is alleged to exist, whether jointly, severally, or in the alternative.

(2.) All persons may be joined as defendants against whom the right to any relief claimed is alleged to exist, whether jointly, severally, or in the alternative.

(3.) The Court may at any stage strike out the names of parties improperly or unnecessarily joined, and may, after due notice given to the persons affected, add the names of parties whose presence is essential to a just decision of the matter in dispute.

13. *Plaintiff out of District.*

(1.) Where a plaintiff, taking out a summons either alone or jointly with any other person, is out of the district or only temporarily therein, he must file at the office of the Court, when the summons is issued, a written statement of a fit place within the district where notices and other papers issuing from the Court may be served on him.

(2.) He must also give security for costs by deposit or by bond for such amount as the Court directs.

(3.) The Court may, at any stage of the proceedings, order a plaintiff, who has left or is about to leave the district, to give security, or further or better security, for costs, to such an amount as the Court thinks fit, and may direct proceedings to be stayed in the meanwhile.

14. *Service.*

(1.) Service is effected by an officer of the Court, and is personal, unless in any case the Court thinks fit otherwise to direct.

(2.) Personal service is effected by showing to the person to be served the original document, and by leaving with him a copy of the document of which service is intended.

(3.) Service shall not, without the leave of the Court, be made on Sunday, or before 6 a.m. or after 6 p.m. on any other day.

(4.) This rule applies to the service of a summons, orders, judgments, and all other documents required by these rules or the practice of the Court to be served.

15. *Service of Summons.*

(1.) The summons is delivered by the plaintiff to the officer of the Court for service on the defendant (except in cases where the Court thinks fit otherwise to direct) at least seven days before the day named in the summons for the hearing of the action.

(2.) The date and place of service are endorsed on the original summons by the person serving it.

16. *Renewal of Summons.*

(1.) If any defendant named in a summons is not served therewith before the day named for the hearing, the plaintiff may, at any time within two months from that day, apply to the Court for leave to renew the summons.

(2.) The Court, if satisfied that reasonable efforts have been made to serve the defendant, or for good reason, may order, from time to time and as often as it thinks proper, that the summons be renewed and a fresh day named for the hearing, not being more than six months from the day of the renewal.

(3.) If the summons be renewed a note is to be made thereon by the registrar, stating the renewal and the date thereof.

(4.) A summons so renewed shall remain in force and be available to prevent the operation of any statute of limitation, and for all other purposes, as from the date of the original summons.

(5.) The production of a summons purporting to be so renewed shall be sufficient evidence of the renewal and of the commencement of the action, as of the first date of the renewed summons, for all purposes.

17. *Dismissal for Failure to proceed.*

If an action entered in the cause-book is not proceeded with and disposed of within twelve months from service of the summons, the Court may, if it thinks fit, upon or without application by any party, order the same to be dismissed for failure to proceed.

18. *Payment into Court in Satisfaction.*

(1.) Where an action is brought to recover a debt or damages, any defendant may, at any time after service of the summons, pay into the office of the Court a sum of money by way of satisfaction or amends.

(2.) It shall be paid to the proper officer, who shall give a receipt for the same.

(3.) The defendant shall give the plaintiff notice that he has paid in that money, stating in respect of what claim.

(4.) Money so paid in may, unless the Court otherwise orders, be paid out to the plaintiff, or to his solicitor on the written authority of the plaintiff.

(5.) The plaintiff may, after receipt of notice of payment in, accept the amount in satisfaction of the causes of action in respect of which it is paid in; in which case he shall give notice thereof to the defendant, and the Court shall make such order thereon as shall be just.

19. *Set-off and Counter-claim.*

(1.) A defendant may set off or set up, by way of counter-claim against the claim of the plaintiff, any right or claim.

(2.) Notice of set-off or counter-claim must be given in writing to the Court, so that except in cases when the Court thinks fit otherwise to direct it may be served on the plaintiff at least four days before the day fixed for the hearing of the action. (Form B. 3.)

(3.) The set-off or counter-claim shall have the same effect as if the defendant had brought a cross action, so as to enable the Court to pronounce a final judgment in the same action, both on the original and on the cross claim.

(4.) If in the opinion of the Court the set-off or counter-claim cannot be conveniently tried in the pending action, the Court may refuse permission to the defendant to avail himself of it in that action.

20. *Death of Party or other Change.*

(1.) Where, after action brought, any change or transmission of interest or liability occurs in relation to any party to the action, or any party to

the action dies, or (being a woman) marries, or the action in any other way becomes defective or incapable of being carried on, any person interested may obtain from the Court any order requisite for curing the defect, or enabling or compelling proper parties to carry on the proceedings.

(2.) But any person served with such an order may, within such time, not exceeding fourteen days, as the Court in the order or otherwise directs, apply to the Court to discharge the order.

21. *Matters arising pending Action.*

Any ground of defence which has arisen after action brought may be set up by the defendant, either alone or together with other grounds of defence.

22. *Depositions before Trial.*

(1.) At any time after an action is begun, and before the trial, the Court may take the evidence of a witness who is about to leave the district, or who, from illness or old age or any other sufficient cause, is not likely to be able to be present at the trial.

(2.) The evidence of such witness is taken in like manner, as nearly as may be, as evidence is taken at the trial.

(3.) The note of the evidence is signed by the witness at the time, and sealed with the seal of the Court. It is called a deposition.

(4.) A deposition may not, except for special reasons to be recorded in the minutes, be admitted in evidence at the trial unless it is shown that the party against whom it is offered had an opportunity of cross-examining the deponent.

(5.) Evidence may be taken, in like manner, on the application of any person, although no action or application is pending, where it is proved that the person applying has good reason to apprehend that a proceeding will be taken against him in the Court, and that some person within the district at the time of application can give material evidence respecting the subject of the apprehended proceeding, but that he is about to leave the district, or that from some other cause the person applying will lose the benefit of his evidence if it is not at once taken.

23. *Absence of Parties at Hearing.*

(1.) If at the time appointed for the hearing the plaintiff does not appear, the Court may strike out the action, and make such order as to costs in favour of any defendant appearing as the Court thinks just.

(2.) If the plaintiff a second time in like manner fails to appear, the Court shall, unless it sees good reason to the contrary, dismiss the summons, which dismissal shall have the like effect as a judgment for the defendant on the merits at the hearing.

(3.) If at the time appointed for the hearing the plaintiff appears, but the defendant, or any of the defendants, does not appear, the Court, before hearing the action, inquires into the service of the summons on the absent party or parties.

(4.) The Court, if not satisfied respecting service on every party, may order that further service be made as the Court directs, and may adjourn the hearing for that purpose.

(5.) The Court, on being satisfied respecting service on every party, may, if it thinks fit, proceed to hear the action, notwithstanding the absence of the defendant, or of any of the defendants.

(6.) If the Court hears the action, and makes an order against a defendant in his absence, the Court may afterwards, on such terms as the Court thinks fit, re-hear the action, on proof that his absence was excusable, and that he has a defence on the merits.

24. *Hearing.*

(1.) Every action shall be heard and determined in a summary way.

(2.) The hearing takes place in open Court.

(3.) The Court may postpone or adjourn the hearing when, and as often, as justice requires.

25. Judgment.

(1.) The judgment of the Court is delivered in open Court, and recorded in the minutes.

(2.) Every such minute shall have the full force and effect of a formal order.

(3.) The Court may at any time order a formal order to be drawn up on the application of any party.

(4.) Where the grounds of the judgment are stated in writing, the written statement, or a copy signed by the Judge holding the Court is filed on the file of proceedings.

(5.) Where the Court reserves judgment, the parties are served with notice to attend and hear judgment, unless the Court at the hearing states the day on which judgment will be delivered.

(6.) All parties are deemed to have notice of the judgment if pronounced at the hearing.

(7.) All parties served with notice to attend and hear judgment are deemed to have notice of the judgment when pronounced.

(8.) Judgment may be given by the Court subject to a case to be stated for the Supreme Court.

26. Costs.

(1.) In every action the costs of the whole action, and of each particular proceeding therein, and the costs of every proceeding in the Court, are in the discretion of the Court, as regards the person by whom they are to be paid.

(2.) But the Court shall not order the successful party in an action to pay to the unsuccessful party the costs of the whole action; although the Court may order the successful party, notwithstanding his success in the action, to pay the costs of any particular proceeding therein.

(3.) The Court may order any costs to be paid out of any fund or property to which an action or proceeding relates.

(4.) Where the Court orders costs to be paid by any party, the Court may, if it thinks fit, order all proceedings by, or on behalf of that party in the same action or proceeding, or connected therewith, to be stayed until the costs are paid.

(5.) When the Court adjudges or orders any costs to be paid, the amount of such costs is, if practicable, fixed by the Court at the time of making the judgment or order and named therein.

(6.) In fixing the amount of costs the principle to be observed is that the party who is in the right is to be indemnified for the expense to which he has been necessarily put in establishing his claim, defence, or counter-claim, but the Court takes into account all the circumstances of the case.

27. Judgments and Orders.

(1.) Upon the application of any party to an action a judgment or order shall be drawn up in the Form B. 4, or some Form to the like effect. It shall, when drawn up, bear the date of the day when it was given or made, and shall be copied in full in the minutes.

(2.) When a judgment or order is drawn up the Court certifies it by affixing to it the seal of the Court, or by signature as provided by Article 17, and the order so certified is handed to the party applying for it.

(3.) Until a judgment or order has been drawn up and certified it cannot be served or enforced, or appealed against.

(4.) Any party to an action is entitled, on paying a reasonable sum for the expense of copying, to an office copy (that is, a copy certified by the seal of the Court) of any judgment or order which has been drawn up and entered.

28. Operation of Judgment.

(1.) A judgment or order for the payment of money may, as the Court thinks fit, order the money to be paid either at once or by specified instalments, or after the expiration of a specified time.

(2.) A judgment or order requiring any person to do any act other than

the payment of money, or to abstain from doing anything, may, according as the Courts directs, take effect at once or after the expiration of a specified time.

(3.) The Court may at any time stay execution of a judgment or order upon such terms as it thinks fit.

29. *Payment of Money ordered to be paid.*

(1.) All money ordered by any judgment or order of the Court to be paid by any person must be paid into an office of the Court unless the Court otherwise directs.

(2.) Money so paid in is paid out by the Court to the person entitled thereto.

30. *Execution. Generally.*

(1.) Execution of a judgment or order does not issue against a party who has not been served with the judgment or order.

(2.) A judgment or order may not, in general, be served or enforced out of the district of the Court.

(3.) But the Court may, for special reasons to be recorded in the minutes, direct that any particular judgment or order be served or enforced out of that district.

(4.) When the Court is satisfied that a judgment or order has been served and not obeyed, the Court, on the application of the person entitled to the benefit of the judgment or order, unless it sees good reason to the contrary, issues execution.

(5.) When default is made in paying an instalment under a judgment or order ordering the payment of money by instalments, execution may issue for the whole sum then remaining unpaid, unless the Court otherwise directs.

31. *Execution of Judgments or Orders for the Payment of Money.*

(1.) The person entitled to the benefit of a judgment or order for the payment of money is called the judgment creditor.

(2.) The person bound by such judgment or order is called the judgment debtor.

(3.) Execution of the judgment or order for the payment of money is—

- (a.) By seizure and sale of the judgment debtor's goods, or
- (b.) By attachment of debts due to the judgment debtor, or
- (c.) By both the above-mentioned processes, or
- (d.) In certain cases, by sale of the judgment debtor's lands.

32. *Seizure and Sale.*

(1.) On the application of a judgment creditor the Court issues a warrant of seizure and sale, directing an officer of the Court therein named to levy the money due, together with the costs of the execution, by seizure and sale of the goods of the judgment debtor wheresoever found within the district. (Form B. 5.)

(2.) The sum due, and the further sum to be levied for costs of the execution, are indorsed on the warrant.

(3.) The sale of the goods seized shall be made by order of the Court, and shall be conducted under the direction of the Court, and by a person nominated by the Court.

(4.) But no steps shall be taken therein without the demand of the judgment creditor.

(5.) The judgment creditor shall be liable for any damage recoverable in consequence of any proceeding taken at his instance.

(6.) The sale shall not be made until after the end of five days at least next following the day of seizure, unless the goods are of a perishable nature, or on the request, in writing, of the judgment debtor, or under order of the Court made for reasons recorded in the minutes.

(7.) Until sale the goods shall be deposited by the officer in some fit

place, or they may remain in the custody of a fit person approved by the Court and put into possession by the officer.

(8.) The Court shall not order the sale of the goods seized unless it is proved that they belong to the judgment debtor, and are in a place where the Court has jurisdiction.

(9.) Where a claim is made by a third party to the goods, or part thereof, the same, if made by a British subject, shall be decided by the Court in a summary way, as between the claimant and the judgment creditor.

(10.) If the claim is made by a native or foreigner, the Court may, if it thinks fit, either oblige the judgment creditor to establish his claim before selling the goods, or sell the goods and require the judgment creditor to defend any claim.

(11.) The officer executing a warrant of seizure and sale may, by virtue thereof, seize any money, bank notes, bills of exchange, promissory notes, bonds, or securities for money belonging to the judgment debtor.

(12.) The Court shall hold the property or instruments seized, other than money and securities immediately convertible into money, as security for the amount directed to be levied, or so much thereof as is not otherwise levied, for the benefit of the judgment creditor.

(13.) The judgment creditor may sue in the name of the judgment debtor, or in the name of any person in whose name the judgment debtor might have sued, for the recovery of the money secured or made payable by any instrument seized, when the time for suing arrives.

(14.) If, before or after seizure, the judgment debtor, by payment into Court, or to the officer executing the warrant, satisfies the execution, the warrant shall be superseded, and the goods and property and instruments seized shall be released and delivered up.

33. *Attachment of Debts.*

(1.) Execution by way of attachment of debts is granted when the judgment creditor satisfies the Court that another person (called the garnishee) is indebted to the judgment debtor, and is within the jurisdiction of the Court.

(2.) The Court may summon the garnishee and the judgment debtor to attend and be examined.

(3.) If the garnishee upon such examination disputes his liability to the judgment debtor, or alleges that the debt sought to be attached belongs to some third person, the Court takes such proceedings as it thinks necessary to determine the garnishee's liability, and may, if such third person is within the jurisdiction, summon such third person or any other necessary witness to attend, and may bar or otherwise deal with such third person's claim.

(4.) If the garnishee admits, or the Court after such proceedings as aforesaid is satisfied, that there is a liquidated sum then due from the garnishee to the judgment debtor, the Court may order the garnishee to pay into Court the amount so due, or so much thereof as is sufficient to satisfy the claim of the judgment creditor. (Form B. 6.)

(5.) If the garnishee disobeys the order for payment, the Court may issue a warrant of seizure and sale against his goods.

(6.) Payment made by, or execution levied upon, the garnishee, under an order for payment, is a valid discharge to him as against the judgment debtor to the amount paid or levied.

34. *Sale of Lands.*

(1.) When the judgment debtor is beneficially entitled to any interest in any lands within the district, and the Court is satisfied that there is no other property of the judgment debtor available for execution, the Court may, on the application of the judgment creditor, issue a warrant directing an officer of the Court to sell the interests of the judgment debtor in such lands at such time and in such manner as under the circumstances the Court thinks just and reasonable. (Form B. 7.)

(2.) The proceeds of the sale shall be paid into Court.

(3.) Before issuing such warrant, the Court may inquire, if it thinks fit, into the nature and extent of the judgment debtor's interest, and for the purpose of such inquiry may summon the judgment debtor and other witnesses to attend.

35. *Committal of Judgment Debtor.*

(1.) Where a judgment or order for the payment of money remains after service wholly or in part unsatisfied, whether execution has issued or not, the Court may, on the application of the judgment creditor, summon the judgment debtor to attend and be examined as to his ability to pay. (Form B. 8.)

(2.) The judgment debtor if he appears, and whether the judgment debtor appears or not, any other witnesses whom the Court thinks fit to summon, may then be examined on oath as to the circumstances under which the judgment debtor incurred the debt or liability, and as to his ability then and since and at the time of the examination to satisfy such debt or liability.

(3.) The Court may, if it thinks fit, adjourn the examination from time to time, and require from the judgment debtor security for his appearance, and in default of his finding security, may, by order, commit him until the adjourned hearing to the custody of an officer of the Court.

36.

If it appears to the Court, by the examination of the judgment debtor or other evidence—

- (1.) That the judgment debtor then has, or, since the making of the order, has had sufficient means to pay the money directed to be paid by him, and he refuses or neglects to pay the same according to the order; or
- (2.) That, with intent to defraud his creditors, or any of them, he has made or suffered any gift, delivery, or transfer of any property, or charged, removed, or concealed any property; or
- (3.) That the debt or liability in question has been contracted or incurred by him, by or by reason of fraud, or false pretence, or breach of trust, committed by him; or
- (4.) That forbearance thereof was obtained by him by fraud or false pretence; or
- (5.) That the debt or liability was wilfully contracted or incurred by him without his having at the same time a reasonable expectation of being able to pay or discharge it;

Then, and in any such case, the Court may, if it thinks fit, by order commit him to prison for any time not exceeding forty days, and may issue its warrant accordingly. (Form B. 9.)

The order, and the grounds on which it is made, must be recorded in the minutes.

37. *Orders for Payment of Money.*

On the examination, the Court, if it thinks fit, whether it makes an order for commitment or not, may rescind or alter any order for the payment of money, by instalments or otherwise, and may make any further or other order, either for payment of the whole amount forthwith, or by instalments, or in any other manner as the Court thinks fit.

38. *Expenses of Debtor's Maintenance in Prison.*

(1.) The expenses of the judgment debtor's maintenance in prison shall be defrayed, in the first instance, by the judgment creditor, and may be recovered by him from the judgment debtor, as the Court directs.

(2.) The expenses shall be estimated by the Court, and shall be paid by the judgment creditor at such times and in such manner as the Court directs.

(3.) In default of payment, the judgment debtor may be discharged, if the Court thinks fit.

39. Imprisonment not satisfaction of Debt.

(1.) Imprisonment of a judgment debtor under the foregoing provisions shall not operate as a satisfaction or extinguishment of the debt or liability to which the order relates, or protect the debtor from being anew imprisoned for any new fraud, or other default making him liable to be imprisoned, or deprive the judgment creditor of any right to have execution against his goods, as if there had not been such imprisonment.

(2.) The judgment debtor, on paying at any time the amount ordered to be paid, and all costs and expenses, shall be discharged.

40. Execution of Judgments or Orders other than those for the Payment of money.

(1.) A judgment or order which orders a person to do any act other than the payment of money, or to abstain from doing anything, is executed by arrest, or by sequestration, or by both processes.

(2.) The copy of such a judgment or order served on the person required to obey it is indorsed with a memorandum in the words or to the effect following :

"If you, the within named A. B., neglect to obey this order within the time therein appointed, you will be liable to be arrested, and your property may be sequestered."

41. Arrest.

(1.) Where any person directed to do or abstain from doing the act fails to obey the order, the person prosecuting the order may apply to the Court for a warrant for the arrest of the disobedient person.

(2.) Thereupon the Court shall, unless it sees good reason to the contrary, issue a warrant ordering and empowering an officer of the Court therein named to take the body of the disobedient person, and detain him in custody until further order. (Form B. 10.)

(3.) He shall be liable to be detained in custody until he has obeyed the order in all things that are to be immediately performed, and has given such security, as the Court thinks fit, to obey the order in other respects (if any), at the future times thereby appointed ; or, in case of his no longer having the power to obey the order, then until he has been imprisoned for such time, not exceeding thirty days, or until he has paid such fine, not exceeding ten pounds, as the Court thinks fit.

42. Sequestration.

(1.) In case the person against whom a warrant of arrest issues is not and cannot be found, or is taken and detained in custody without obeying the order, then the person prosecuting the order may apply to the Court for a warrant of sequestration against his property.

(2.) The warrant of sequestration empowers and directs the person or persons therein named, called the sequestrators, to enter upon and seize all the real and personal estate within the district of the person against whom the order issues, and to keep the same and the rents and profits thereof until such last-named person shall appear before the Court and clear his contempt, or until the Court shall otherwise order. (Form B. 11.)

(3.) The Court may order, out of the proceeds of the sequestration, payment of all charges attending its execution, including such reasonable remuneration to the sequestrators as the Court may allow.

43. Injunctions and Orders before Action.

(1.) On proof of urgency or other peculiar circumstances, the Court may, if it thinks fit, before service of a summons and without notice, make an order of injunction, or an order to sequester money or goods, or to stop the clearances of a vessel, or to hold to bail, or to attach property.

(2.) Before making the order the Court shall require the person applying for it to enter into a recognisance, with or without a surety or sureties, as the Court thinks fit, as security for his being answerable in damages to the person against whom the order is sought,

(3.) The order shall not remain in force more than twenty-four hours, and shall, at the end of that time, wholly cease to be in force, unless within that time an action is regularly brought by the person obtaining the order.

(4.) The order shall be dealt with in the action as the Court thinks just.

Appeals.

44. Time of Appeal.

An application to the Court for leave to appeal must be made within two months from the date of the delivery of the decision or the making of the order of the Court, and an application to the Court of Appeal for such leave must be made within six months from such date.

45. Motion, Security.

(1.) Such application must be made by motion, copy of which is served by the Court or the Court of Appeal, as the case may be, on the respondent, with notice of the day on which the question will be heard.

(2.) The Court or the Court of Appeal may in granting such leave require the appellant to give such security as it thinks proper that he will prosecute the appeal and pay the costs if unsuccessful, and to pay into Court the sum estimated by the Court as the cost of making up and transmitting the record to the Court of Appeal.

46. Cross Appeal.

The respondent shall, within fourteen days from the service of the notice of motion for leave to appeal, give notice of cross appeal, if any.

47. Making up and transmitting Record.

(1.) The Court when leave to appeal has been granted makes up the record of appeal, which includes certified copies of the summons, of any order made in the action, of all written and documentary evidence admitted or tendered, of the notes of the oral evidence, and of the notice of appeal.

(2.) The several pieces are fastened together and numbered consecutively, and the whole is secured by the seal of the Court, and forwarded by the Court to the Court of Appeal.

(3.) No original document shall, except under special circumstances, be transmitted as part of the record.

(4.) After the record of appeal is transmitted, until the appeal is disposed of, the Court of Appeal is in possession of the whole action as between the parties to the appeal.

(5.) The order made on the appeal by the Court of Appeal is, when duly certified and transmitted to the Court below, enforced by the latter Court in the same manner as one of its own orders.

48. New Evidence on Appeal.

(1.) It is not open, as of right, to a party to an appeal to adduce new evidence in support of his original case, but a party may allege any facts essential to the issue that have come to his knowledge after the decision of the Court below, and may adduce evidence in support of his allegations.

(2.) The Court of Appeal may in any case, if it thinks fit, allow or require new evidence to be adduced.

49. Stay of Execution on Appeal.

(1.) When leave to appeal or a notice of appeal is given before the judgment or order appealed against has been obeyed or enforced, the Court may, as it thinks fit, either direct immediate execution, or suspend execution pending the appeal.

(2.) If the Court directs immediate execution, it may require the person entitled to execution to give security before execution for the performance of the order to be made on appeal.

(3.) If the Court suspends execution it may require the appellant to

give security before the order for suspension issues, to the amount of the judgment or order appealed against.

50. *Time.*

(1.) Where any particular number of days is prescribed for doing any thing by these rules, or by any judgment, order, or rule of the Court, the same shall be reckoned exclusively of the first day and inclusively of the last, unless clear days are mentioned.

(2.) Where the days prescribed are less than six days, Sundays are not to be reckoned in the computation.

(3.) Where the time prescribed for doing anything by these rules, or by any judgment, order, or rule of the Court expires on Sunday, the act or proceeding will be done or taken in due time if done or taken on the next day.

51. *General Powers of the Court.*

(1.) Every application in the course of an action may be made to the Court orally and without previous formality, unless in any case the Court otherwise directs.

(2.) The Court may, as often as it thinks fit, and either before or after the expiration of the time appointed by these Rules, or by any judgment, order, or rule of the Court, extend, or abridge, or adjourn the time for doing any act or taking any proceeding.

(3.) No action or proceeding shall be treated by the Court as invalid on account of any technical or former error.

(4.) All errors and mistakes may be corrected, and all amendments made, and non-compliance with any of the rules of practice excused, by the Court upon such terms as to costs or otherwise as it thinks just and reasonable.

52. *Probate or Administration in General.*

(1.) Probate or letters of administration with will annexed shall not issue for seven days from the death of the deceased, except under the direction of the High Commissioner, or a Judicial Commissioner, or in case of great urgency.

(2.) Letters of administration (not with will annexed) shall not issue for fourteen days from the death of the deceased, except under the direction of the High Commissioner, or a Judicial Commissioner, or in case of great urgency.

53. *Notice to Executors.*

The Court may, of its own motion, or on the application of any person claiming an interest under a will, give notice to the executors (if any) therein named to come in and prove the will or to renounce probate, and they, or some or one of them, shall, within fourteen days after notice, come in and prove or renounce accordingly.

54. *Application after three years.*

Where probate or administration is, for the first time, applied for after three years from the death of the deceased, a grant shall not be made except under the direction of the High Commissioner or a Judicial Commissioner.

55. *Communication with High Commissioner.*

(1.) Where a question arises in relation to the grant or the application for it, or it appears to the Court doubtful whether or not the grant should be made, the Court shall communicate with the High Commissioner or a Judicial Commissioner.

(2.) The Court shall proceed in the matter according to such instructions as are given by the High Commissioner, or a Judicial Commissioner, or shall by order remove the matter to be dealt with by the High Commissioner or a Judicial Commissioner.

(3.) Sub-section (1) of this rule, any sub-section of other rules prescribing similar communications, apply only to the Court when held otherwise than before the High Commissioner, or a Judicial Commissioner.

56. *District Courts.*

A district Court before proceeding on an application, shall ascertain that the deceased was at his death resident in the district, and shall not for this purpose consider himself bound to rest satisfied with the evidence offered by the applicant.

57. *Evidence of Identity.*

The Court shall require evidence, in addition to that offered by the applicant, of the identity of the deceased, or of the applicant, where additional evidence in that behalf seems to the Court necessary or desirable.

58. *Value of Estate.*

The Court shall ascertain the value of the property of the deceased as correctly as circumstances allow.

59. *Inquiries.*

In no case shall the Court issue probate or letters of administration until all inquiries which the Court sees fit to institute have been answered to its satisfaction.

60. *Facilities.*

The Court shall, however, afford as great facility for the obtaining of probate or administration as is consistent with due regard to the prevention of error and fraud.

61. *Directions of Judicial Commissioner.*

In the following cases a grant shall not issue, except under the direction of a Judicial Commissioner, namely :—

Probate or administration with will annexed, where the will was executed before the 1st of January, 1838, and there is no testamentary paper of a date later than the 31st of December, 1837 ;

Probate and administration with will annexed, the will being merely an execution of a special power, or being the will of a married woman made by virtue of a power ;

Administration for the use or benefit of a minor or infant, or of a lunatic or of unsound mind ;

Administration (with or without will annexed) of the property of a bastard dying either a bachelor or spinster, or a widower or widow without issue, or of a person dying without known relative ;

Limited administration ;

Administration to be granted to a person not resident.

62. *Revocation, Alteration.*

Revocation or alteration of a grant of probate or administration shall not be made except under the immediate direction of a Judicial Commissioner.

63. *Notices to prohibit Grant.*

(1.) A notice to prohibit a grant of probate or administration may be filed in the public office of the Court or of any district Court.

(2.) Immediately on such a notice being filed in the public office of the Court, a copy thereof shall be sent to the Court for the district (if any) in which it is alleged the deceased was resident at his death, and to any other district Court to which it appears expedient to send a copy.

(3.) Immediately on such a notice being filed in the public Court office of any district, the Court shall send a copy thereof to the High Commissioner, and also to the Court for any other district in which it is known or alleged the deceased had, at his death, a place of abode.

(4.) The notice shall remain in force three months only from the day of filing ; but it may be renewed from time to time.

(5.) The notice shall not affect a grant made on the day on which the notice is filed, or on which a copy thereof is received, as the case may be.

(6.) The person filing the notice shall be warned by a warning in writing, issued from the Court, delivered at the place mentioned in the notice as his address.

(7.) After the notice has been filed in the public Court office of a district, or a copy thereof has been received by a district Court, a grant of probate or administration shall be made only under the direction of the High Commissioner or of a Judicial Commissioner.

64. *Notices in the nature of Citations.*

Notices in the nature of citations shall be given by publication in such newspapers or in such other manner as the Court in each case thinks fit.

65. *Original Wills.*

(1.) Every original will of which probate or administration with will annexed is granted, shall be filed and kept in the public office of the Court, or of the district Court issuing the grant, in such manner as to secure at once the due preservation and the convenient inspection of the same.

(2.) No original will shall be delivered out for any purpose without the direction in writing of the High Commissioner or a Judicial Commissioner.

(3.) An office copy of the whole or of any part of a will, or an official certificate of a grant of administration, may be obtained from the Court on payment of the proper fees.

66. *Lists of Grants, Copies.*

On the 1st of February and the 1st of August in every year every Court shall send to the High Commissioner—

- (i.) A list of the grants of probate and administration made by the Court up to the last preceding 1st of January and 1st of July respectively, not included in any previous list ;
- (ii.) A copy, certified by the Court to be a correct copy of every will to which each probate or administration relates.

67. *Probate or Administration with Will annexed.*

(1.) On receiving an application for probate or for administration with will annexed, the Court shall inspect the will and see whether it appears to be duly signed and witnessed, according to the enactments relative thereto.

(2.) The will is not duly signed and witnessed, unless—

- (a.) The testator made or acknowledged his signature in the presence of two witnesses ;
- (b.) The two witnesses were present with him at the same time ;
- (c.) They attested and subscribed the will in his presence, and in the presence of each other.

(3.) If the will appears to be duly signed and witnessed, the Court shall then refer to the attestation clause (if any), and consider whether the wording thereof states the will to have been, in fact, so signed and witnessed.

(4.) If there is no attestation clause, or if the attestation clause is insufficient, the Court shall require an affidavit from at least one of the subscribing witnesses, if either of them is living, to prove that the will was, in fact, so signed and executed.

(5.) The affidavit shall be engrossed and form part of the probate, so that the probate may be complete.

(6.) If, on perusal of the affidavit, it appears that the will was not, in fact, duly signed and attested, the Court shall refuse probate.

(7.) If, on perusal of the affidavit, it appears to the Court doubtful whether or not the will was, in fact, duly signed and attested, the Court shall communicate with the High Commissioner or a Judicial Commissioner for directions.

(8.) If both the subscribing witnesses are dead, or if, from other circumstances, such an affidavit cannot be obtained from either of them, resort for such an affidavit shall be had to other persons (if any) present at the

execution of the will ; but if no such affidavit can be obtained, proof shall be required of that fact and of the handwritings of the deceased and subscribing witnesses, and also of any circumstances raising a presumption in favour of the due signing and attestation of the will.

68. *Blind or Illiterate Testator.*

(1.) Where the testator was blind or illiterate, the Court shall not grant probate of the will or administration with the will annexed, unless the Court is first satisfied, by proof, or by what appears on the face of the will, that the will was read over to the deceased before its execution, or that he had at that time knowledge of its contents.

(2.) Where this information is not forthcoming, the Court shall communicate with the High Commissioner or a Judicial Commissioner for directions.

69. *Interlineations, Alterations, Erasures.*

(1.) The Court, on being satisfied that the will was duly executed, shall carefully inspect it to see whether there are any interlineations or alterations or erasures or obliterations appearing in it, and requiring to be accounted for.

(2.) Interlineations, alterations, erasures, and obliterations are invalid unless they existed in the will at the time of its execution, or unless, if made afterwards, they have been duly signed and attested in the mode required for a will, or unless they have been made valid by the re-execution of the will, or by the subsequent execution of some codicil thereto.

(3.) Where interlineations, alterations, erasures, or obliterations appear in the will, unless they are duly signed and witnessed or recited in or otherwise identified by the attestation clause, an affidavit, in proof of their having existed in the will before its execution, shall be filed.

(4.) If it is not proved when an erasure or obliteration was made, and the words erased or obliterated are not entirely effaced, and can, on inspection of the will, be read, they shall form part of the probate.

(5.) Where words have been erased which might have been of importance, an affidavit shall be required.

(6.) If reasonable doubt exists in regard to any interlineation, alteration, erasure, or obliteration, the Court shall communicate with the High Commissioner or a Judicial Commissioner for directions.

70. *Reference to other Instruments.*

(1.) Where a will contains a reference to any instrument of such a nature as to raise a question whether it ought or ought not to form a constituent part of the will, the Court shall require the production of the instrument, with a view to ascertain whether or not it is entitled to probate ; and if it is not produced, a satisfactory account of its non-production shall be proved.

(2.) An instrument cannot form part of a will unless it was in existence at the time when the will was executed.

(3.) If there are vestiges of sealing wax or wafers or other marks on the will, leading to the inference that some instrument has been at some time annexed or attached thereto, a satisfactory account of them shall be proved, or the production of the instrument shall be required ; if it is not produced, a satisfactory account of its non-production shall be proved.

(4.) If doubt exists whether or not a document is entitled to probate as a constituent part of a will, the Deputy Commissioner shall communicate with the High Commissioner or a Judicial Commissioner for directions.

71. *Death of Executor, Failure to Prove.*

(1.) Where a person appointed executor in a will survives the testator, but either dies without having taken probate, or having been called on by the Court to take probate, does not appear, his right in respect of the executorship wholly ceases.

(2.) Without further renunciation, the representation to the testator

and the administration of his property go and may be committed as if that person had not been appointed executor.

72. *Marking Wills.*

Every will, or copy of a will, to which an executor or an administrator with will annexed is sworn, shall be marked by the executor or administrator, and by the person before whom he is sworn.

73. *Copies.*

The Court shall take care that the copies of wills to be annexed to probates or letters of administration are fairly and properly written, and shall reject any not so written.

74. *Intestacy.*

(1.) The Court, in granting letters of administration, shall proceed, as far as may be, as in cases of probate.

(2.) The Court shall ascertain the time and place of deceased's death, and the value of the property to be covered by the administration.

(3.) The person to whom administration is granted shall give bond with two or more responsible persons subject to the jurisdiction of the Court, as sureties, to the High Commissioner, conditioned for duly collecting, getting in, and administering the personal property of the deceased.

(4.) Where, however, the property is under the value of fifty pounds, the Court may, if it thinks fit, take one surety only.

(5.) The bond shall be in a penalty of double the amount under which the personal estate of the deceased is sworn, unless the Court in any case thinks it expedient to reduce the amount, for reasons to be forthwith certified by a Deputy Commissioner to the High Commissioner.

(6.) The Court may also in any case direct that more bonds than one shall be given, so as to limit the liability of any individual surety to such amount as the Court thinks reasonable.

(7.) The High Commissioner may, on being satisfied that the condition of the bond has been broken, assign the same to some person; that person may thereupon sue on the bond in his own name, as if it had been originally given to him instead of to the High Commissioner, and may recover thereon, as trustee for all persons interested, the full amount recoverable in respect of any breach of the condition of the bond.

75. *Several Next-of-Kin.*

Where administration is applied for by one or some of the next-of-kin only, there being another or other next-of-kin equally entitled thereto, the Court shall require proof that notice of the application has been given to the other next-of-kin.

76. *Arbitration.*

The following provisions, under the head Arbitration, apply only to cases where the agreement for reference to arbitration or submission to arbitration by consent is made a rule of Court.

77. *Time for Award.*

The arbitrator shall make his award within one month after he has entered on the reference or has been called on to act by a notice in writing from any party, unless the document authorising or making the reference contains a different limit of time.

78. *Enlargement of Time.*

The Court may, if it thinks fit, on reasonable notice to all parties, from time to time enlarge the time for making the award for such time as the Court thinks just, the reasons for enlargement being recorded in the minutes.

79. *Authority, how revocable.*

The authority of an arbitrator is not revocable except by the Court.

80. *Costs.*

(1.) The arbitrator may award how the costs of the reference shall be borne, in the whole or in part.

(2.) But an award respecting costs shall not preclude a party against whom costs are awarded from applying to the Court to tax the costs; and on that application the costs, including the remuneration (if any) of the arbitrator, shall be taxed at a reasonable rate by the Court; and the Court shall make such order respecting the costs of taxation as the Court thinks just.

81. *Deposit of Award.*

(1.) The arbitrator making an award shall, within the time limited, deposit the award in the Court, inclosed in a sealed cover, and indorsed with the names of the parties to the reference, and with a note of the amount claimed by the arbitrator for remuneration.

(2.) Notice of the award having been deposited shall be served by the Court on the parties, who shall be at liberty to read the award, and to have copies of it.

82. *Two or more Arbitrators.*

If in any case the Court shall give directions for the appointment of two or more arbitrators and an umpire instead of a single arbitrator, the foregoing rules shall *mutatis mutandis* apply to such case.

FORMS. (CIVIL.)

II.—*Civil (in General).*

B. 1.

Summons for Commencement of Action.

(General Heading.)

To C.D., of [], defendant.

You are required to attend this Court on [Thursday], the day of 18 , at [ten] o'clock a.m., being the time appointed for the hearing of an action brought against you by the plaintiff, A.B., of , the particulars of the claim being stated below.

If you fail to attend according to this summons, the plaintiff may proceed, and the Court may give judgment in your absence.

(Seal.)

Particulars of Claim.

[Print on Form.]
NOTE.—The officer of the Court may fill up the particulars if the plaintiff requests him to do so.

The plaintiff's claim is—

[To recover £ for the price of goods sold.]

or

To recover £ for the use and occupation of a house.]

or

[To have an account taken of the partnership dealings between the plaintiff and defendant, and to have the affairs of the partnership wound up.]

or

[For £ for damages for negligence in the custody of goods, and for wrongful detention thereof.]

or

[As executor (or administrator) of *K.L.*, late of deceased, for]

or

[Against the defendant as executor (or administrator) of *M.N.*, late of , deceased, for]

[Or as the case may be.]

(Print on Form.)

NOTE.—The registrar of the Court may fill up the particulars if the plaintiff requests him to do so.

Indorsements on Original Summons.

(General Heading.)

B. v. D.

Summons

with

Particulars of Claim.

[Print on Form.]

NOTE.—This should be filled up forthwith after service by the officer effecting it.

For hearing on [Thursday], the day of 18 , at [10] o'clock in the morning.

Served by named *C.D.*, on [Thursday], the day of on the within- at o'clock, at personally [or as the case may be].

(Signature of officer effecting service.)

B. 2.

Form of Cause Book.

Suits in the year 18 .

No. of Action.	Date of Original Summons.	Name, Description, and Place of Abode of Plaintiff.	Name, Description, and Place of Abode of Defendant.	Particulars of Claim.	Date of Hearing. Date of Judgment.	Date of Appeal. Judgment on Appeal.	Particulars of Execution ordered.	Return of Execution.	Review.	Appeal.

B. 3.

Notice of Set-off or Counter-Claim.

(General Heading.)

To the Court.

Take notice that the defendant will rely on a set-off or counter-claim of which the following are the particulars :—

(Signed)

Defendant.

[This notice, unless the Court requires the counter-claim to be separately tried, is to be sealed by the Court and served by the officer of the Court on the plaintiff.]

B. 4.

Judgment at Trial (as drawn up).

(General Heading.)

(Date.)
 This action having on the _____ day of _____
 come on for trial
 It is this day adjudged that _____

(Seal.)

B. 5.

Warrant of Seizure and Sale.

(General Heading.)

To *X.Y.*, officer of this Court.
 You are hereby commanded to seize the goods of *C.D.*, and by sale thereof, or of a sufficient part thereof, to levy the sum of £ _____ and also interest thereon at the rate of _____ per centum per annum from the _____ day of _____, * which said sum of money and interest were in this action by order dated the _____ day of _____, ordered to be paid by the defendant *C.D.* to *E.F.* And further, the sum of £ _____ for costs in the said order mentioned, together with interest thereon at the rate of _____ per centum per annum from the _____ day of _____, * and forthwith after the execution of this warrant you shall return the same to this Court, with the place, time, and mode of execution indorsed thereon, and with the money levied thereunder.

(Seal.)

* Day of the judgment or order, or day on which money directed to be paid, or day from which interest is directed by the order to run, as the case may be.

B. 6.

Order to Garnishee to pay Judgment Creditor.

(General Heading.)

Whereas the above-named *A.B.* [judgment debtor] has been ordered by this Court in the above action to pay to the above-named *C.D.* [judgment creditor] £ _____, the whole of which sum is [or of which sum £ _____ are] still unpaid; and whereas it has been proved to the Court that you are indebted to the said *A.B.* in £ _____; you are hereby required to pay to the said *C.D.* the debt so due from you to the said *A.B.*, or so much thereof as may be sufficient to satisfy the sum due under the said order from the said *A.B.* to the said *C.D.*; and in default of your doing so, take notice that execution may issue against you.

(Seal.)

B. 7.

Warrant for Sale of Lands.

(General Heading.)

To _____, officer of the Court.
 You are hereby commanded to sell the right, title, and interest of the above-named *C.D.* [judgment debtor] in the lands, tenements, and hereditaments specified in the Schedule hereunder written [here insert any directions as to the time and mode of sale]: and forthwith, after the execu-

tion of this warrant, you are to return the same to this Court, with the place, time, and mode of execution indorsed thereon, and with the proceeds of such sale.

Schedule :

(Seal.)

B. 8.

Judgment Debtor Summons.

(General Heading.)

To _____, the above-named defendant.
You are hereby required to appear before this Court at _____
on the _____ day of _____, at
o'clock in the forenoon, then and there to be examined respecting your
ability to satisfy the judgment recovered [or order made] against you in
the above suit.

(Seal.)

B. 9.

Warrant for Committal of Judgment Debtor.

(General Heading.)

To X.Y., _____, officer of the Court.
The Court has this day ordered that the above-named C.D. be im-
prisoned as a judgment debtor for _____ from the day of the
Order. You are therefore hereby commanded,
you, the said X.Y., to take the body of the said C.D., and convey him to
the above-mentioned prison, and there deliver him to the keeper thereof,
with this warrant.

And you, the keeper of that prison, to receive the said A.B. into your
custody, and there to keep him safely for the time aforesaid.

Dated this _____

(Seal.)

B. 10.

Warrant of Arrest [for Disobedience to a Judgment or Order].

(General Heading.)

To X.Y., officer of this Court, and to the keeper of the prison at _____

It has been shown to the Court that C.D., the above-named defendant
[plaintiff], has failed to obey a judgment [or order] of the Court, dated _____,
whereby the said C.D. was required
to _____

You are therefore hereby required, you, the said X.Y., to take the body
of the said C.D., and to convey him to the above-mentioned prison, and
there deliver him to the keeper thereof, with this warrant.

And you, the keeper of that prison, to receive the said A.B. into your
custody, and there keep him safely until the Court makes order to the
contrary.

Dated, &c. _____

(Seal.)

B. 11.

Warrant of Sequestration.

(General Heading.)

To P.Q. [and X.Y.] _____

It has been shown to the Court that C.D., the above-named defendant
[plaintiff], has failed to obey a judgment [or order] of the Court, dated _____,
whereby the said C.D. was required
to _____

to

You are therefore hereby authorised and commanded to enter upon and seize all the real and personal estate of the said *C.D.* within the district of this Court, and to collect and receive the rents and profits thereof, and to detain and keep the same under sequestration in your hands until the said *C.D.* shall appear before the Court and clear his contempt, or the Court shall make other order.

(Seal.)

B. 12.

Affidavit of attesting Witness in Proof of the Execution of a Will or Codicil dated after 31st December, 1837.

(General Heading.)

In the matter of *A.B.*, deceased.

I, *C.D.*, of _____, make oath and say that I am one of the subscribing witnesses to the last will [or codicil, *as the case may be*] of *A.B.*, late of _____, deceased, the said will [or codicil] being now hereto annexed, bearing date _____, and that the testator executed the said will [or codicil] on the day of the date thereof, by signing his name at the foot or end thereof [or in the testimonium clause thereof, or in the attestation clause thereto, *as the case may be*], as the same now appears thereon,⁽¹⁾ in the presence of me and of _____, the other subscribed witness thereto, both of us being present at the same time, and we thereupon attested and subscribed the said will [or codicil] in the presence of the testator.

(1) If the signature is in the testimonium clause or attestation clause, insert "intending the same for his final signature to his will."

Sworn at _____, this _____ day of _____ 18____, before me, *X.Y.*

C.D.

B. 13.

Oath for Executor.

(General Heading.)

In the matter of *A.B.*, deceased.

I, *C.D.*, of _____, make oath and say as follows:—

(1) Insert besides the name, &c., of the deponent, his relationship, if any, to the testator.
(2) Each testamentary paper is to be marked by the persons sworn and the person administering the oath.

1. I believe the paper writing [or the paper writings] hereto annexed and marked by me⁽²⁾ to contain the true and original last will [or last will with _____ codicils] of *A.B.*, late of _____, deceased.

2. I am the sole executor [or one of the executors] therein named [or executor according to the tenor thereof, executor during life, executrix during widowhood, *or as the case may be*].

3. I will faithfully administer the personal property of the testator by paying his just debts and the legacies given by his will [or will and _____ codicils], so far as his personal property shall extend and the law bind me.

4. I will exhibit an inventory, and render an account of my executorship, whenever lawfully required.

5. The testator died at _____, on the _____ day of _____ 18____.

6. At the time of his death he had his fixed place of abode at _____, within the jurisdiction of this Court.

7. The whole of his personal property does not amount in value to the sum of _____, to the best of my knowledge, information, and belief.

Where more executors than one are appointed, and all are not sworn, a memorandum should be made in the margin of the oath that power is to be reserved to the other executors or executor, or that they have or he has renounced.

Sworn at _____, this _____ day of _____ 18____, before me, *E.F.*

C.D.

B. 14.

Oath for Administrator with Will annexed.

(General Heading.)

In the matter of *A.B.*, deceased.

I, *C.D.*, of _____, make oath and say as follows :—

1. I believe the paper writing [or the paper writings] hereto annexed, and marked by me ⁽¹⁾ to contain the true and original last will [or last will with _____ codicils], of *A.B.*, late of _____ deceased.

(1) Each testamentary paper is to be marked by the persons sworn and the person administering the oath.

2. The executor therein named is dead without having taken probate thereof [or as the fact may be].

3. I am the residuary legatee in trust named therein [or as the fact may be, stating the relationship, if any, of the deponent to the testator].

4. I will faithfully administer the personal property of the testator, by paying his just debts and the legacies given by his will [or will and codicils], so far as his personal property shall extend and the law bind me, and distributing the residue of his personal property according to law.

5. I will exhibit an inventory and render an account of my administration whenever lawfully required.

6. The testator died at _____, on the _____ day of _____ 18 _____.

7. At the time of his death he had his fixed place of abode at _____, within the jurisdiction of this Court.

8. The whole of his personal property does not amount in value to the sum of _____, to the best of my knowledge, information, and belief.

C.D.

Sworn at _____, this _____ day of _____ 18 _____, before me, *E.F.* }

B. 15.

Oath for Administrator (not with Will annexed).

(General Heading.)

In the matter of *A.B.*, deceased.

I, *C.D.*, of _____, make oath and say as follows :—

1. *A.B.*, late of _____, deceased, died intestate, a bachelor, without parent, brother or sister, uncle or aunt, nephew or niece.

2. I am his lawful cousin german and one of his next of kin [this must be altered in accordance with the circumstances of the case].

3. I will faithfully administer the personal property of the deceased, by paying his just debts and distributing the residue of his property according to law.

4. I will exhibit an inventory and render an account of my administration whenever lawfully required.

5. The deceased died at _____, on the _____ day of _____ 18 _____.

6. At the time of his death he had his fixed place of abode at _____, within the jurisdiction of this Court.

7. The whole of his personal property does not amount in value to the sum of _____, to the best of my knowledge, information, and belief.

C.D.

Sworn at _____, this _____ day of _____ 18 _____, before me, *E.F.* }

B. 16.

Probate.

(General Heading.)

To be
written
in
margin.
{
Sworn under
and that the Testator
died on or about the
day of 18

Be it known, that on the day of 18, the last will [or the last will with codicils] (a copy whereof is hereto annexed) of A.B., late of , deceased, who died on , and who at the time of his death had his fixed place of abode at , within the jurisdiction of this Court, was proved and registered in this Court; and that the administration of the personal property of the said deceased was granted by this Court to C.D., the sole executor [or as the case may be] named in the said will, he having been first duly sworn.

X.Y.,
H.B.M. Consul at

(Seal.)

B. 17.

Letters of Administration with Will annexed.

(General Heading.)

Sworn under
and that the Testator died on or
about the
day of 18

Be it known, that A.B., late of , deceased, who died on the day of , at time of his death his fixed place of abode at , within the jurisdiction of this Court, made and duly executed his last will [or his last will with codicils thereto], and did therein name [according to the facts]. And be it further known, that on the day of 18, letters of administration with the said will [and codicils] annexed of the personal property of the deceased were granted by this Court to C.D. [insert the character in which the grant is taken], he having been first duly sworn.

X.Y.,
H.B.M. Consul at

(Seal.)

B. 18.

Letters of Administration (not with Will annexed).

(General Heading.)

Sworn under
and that the Intestate died
on or about the
day of 18

Be it known, that on the day of 18, letters of administration of the personal property of A.B., late of , deceased, who died on the day of 18, at , intestate, and who had at the time of his death his fixed place of abode at , within the jurisdiction of this Court, were granted by this Court to C.D., of , the widow [or as the case may be] of the said intestate, she having been first duly sworn.

X.Y.,
H.B.M. Consul at

(Seal.)

B. 19.

Double Probate.

(General Heading.)

Sworn under
and that the Testator died on or
about the
of 18 .

Be it known, that on the _____ day of
18____, the last will [with _____ codicils] of A.B., late of
_____, deceased, who died on _____
at _____, and who at the time of his death had
his fixed place of abode at _____, within the
jurisdiction of this Court, was proved and registered in this
Court, and that administration of his personal property, and
any way concerning his will, was granted by this Court to C.D.,
one of the executors named in the said will [or codicil], he having
been first duly sworn, power being reserved of making the
like grant to E.F., the other executor named in the said will.
And be it further known, that on the _____ day of
18____, the said will of the said deceased was
also proved in this Court, and that the like administration was
granted by this Court to the said E.F., he having been first
duly sworn.

Former grant
Jan. 18
under the same
sum.

X.Y.,

H.B.M. Consul at

(Seal.)

B. 20.

Letters of Administration of Goods not already administered.

(General Heading.)

Sworn under
and that the Testator died on or
about the day
of 18 .

Be it known, that A.B., late of _____ deceased,
died on _____ 18 _____, at _____, intestate,
and had at the time of his death his fixed place of abode
at _____, within the jurisdiction of this Court,
and that since his death, namely, on the _____ day
of _____ 18 _____, letters of administration of his personal
property were granted by this Court to C.D. [*insert the relation-
ship or character of administrator*], which letters of adminis-
tration now remain on record in this Court, who, after taking
such administration upon him, partly administered the personal
property of the deceased, and afterwards, namely, on _____
_____, died, leaving part thereof unadministered, and that
on the _____ day of _____ 18 _____, letters of
administration of the personal property so left unadministered
were granted by this Court to _____, he having
been first duly sworn.

X.Y.,

H.B.M. Consul at

(Seal.)

B. 21.

Administration Bond.

Know all men by these presents, that we, *A.B.*, of _____,
C.D., of _____, and *E.F.*, of _____,
are jointly and severally bound unto *G.H.*, the High Commissioner
for the Western Pacific, at _____, in the sum of _____,
to be paid to the said *G.H.*, or the Judge
of the said Court for the time being; for which payment we bind

[him], and all the residue of the said personal property do deliver and pay unto such person or persons as shall be by law entitled thereto, and further do make a true and just account of [his] said administration whenever lawfully required, then this obligation shall be void, and otherwise shall remain in full force.

Signed, sealed, and delivered before this Court.

(Seal.)

B. 23.

Declaration of the Personal Property of a Testator or an Intestate.

(General Heading.)

A true declaration of all the personal property of A.B., late of
 , deceased, who died on the day of
 at , and had at the time of his death his fixed place of
 abode at , within the jurisdiction of this Court, which
 have at any time since his death come to the possession or knowledge of
 C.D., the administrator with the will annexed of the said A.B. [or
 administrator, as the case may be], made and exhibited upon and by virtue
 of the oath [or solemn affirmation] of the said C.D., as follows :—

First, I declare that the deceased was at
 the time of his death possessed of or
 entitled to

[The details of the deceased's property must
 be here inserted, and the value inserted
 opposite to each particular.]

Lastly, I say that no personal property of the deceased has at any time
 since his death come to my possession or knowledge, save as is hereinbefore
 set forth.

On the day of , 18 , the said
 C.D. was duly sworn to [or solemnly affirmed] the truth of the above-
 written inventory.

Before me [person authorised to
 administer oaths].

B. 24.

Justification of Sureties.

(General Heading.)

In the matter of A.B., deceased.

We, C.D., of , and E.F., of ,
 severally make oath and say that we are the proposed sureties in the penal
 sum of on behalf of G.H., the intended administrator
 of the personal property of A.B., late of deceased, for
 his faithful administration thereof: and I, the said C.D., for myself make
 oath and say that I am, after payment of all my just debts, well and truly
 worth in money and effects the sum of ; and I, the said
 E.F., for myself make oath and say that I am, after payment of all my
 just debts, well and truly worth in money and effects the sum of .

Sworn by the deponents, C.D. and E.F., at
 this day of , 18 .

C.D.
 E.F.

Before me.
 X.Y.

B. 25.

Renunciation of Probate and Administration with Will annexed.

(General Heading.)

In the matter of *A.B.*, deceased.

Whereas *A.B.*, late of _____, deceased, died on the _____ day of _____ 18____, at _____, having had at the time of his death his fixed place of abode at _____, within the jurisdiction of this Court; and whereas he made and duly executed his last will, dated the _____ day of _____ 18____, ⁽¹⁾ and thereof appointed *C.D.* executor and residuary legatee in trust [or as the case may be]:

(1) If there are codicils their dates should be also inserted.

Now I, the said *C.D.*, do hereby declare that I have not intermeddled in the personal property of the deceased, and will not hereafter intermeddle therein, with intent to defraud creditors or any person interested in the administration or distribution of the property of the deceased, and, further, do hereby expressly renounce all right to probate of the said will [and codicils, if any], and to administration with the said will [and codicils, if any] annexed of the personal property of the deceased.

In witness whereof I have hereto set my hand and seal, this _____ day of _____, 18____.

C.D. (L.S.)

Signed, sealed, and delivered by the above-named *C.D.*, in the presence of *G.H.*

B. 26.

Renunciation of Administration.

(General Heading.)

Whereas *A.B.*, late of _____, deceased, died on the _____ day of _____ 18____, at _____, intestate, a widower, having had at the time of his death his fixed place of abode at _____, within the jurisdiction of this Court; and whereas I, *C.D.*, of _____, am his lawful child, and his only next-of-kin [or as the case may be]:

Now I, the said *C.D.*, do hereby declare that I have not intermeddled in the personal property of the deceased, and further, do hereby expressly renounce all right to administration thereof.

In witness whereof I have hereto set my hand and seal this _____ day of _____, 18____.

C.D. (L.S.)

Signed, sealed, and delivered by the said *C.D.*, in the presence of *G.H.*

B. 27.

Order to a Person to bring in a paper purporting to be Testamentary.

(General Heading.)

The _____ day of _____, 18____.
To *C.D.*, of _____

Whereas it appears by a certain affidavit filed in this Court on the _____ day of _____, 18____, and made by _____, of _____, that a certain original paper, being or purporting to be testamentary,

namely [*here describe the paper*], bearing date the _____ day of _____, 18____, is now in your possession or under your control.

Now this is to command you, in her Majesty's name, that within eight days after service hereof on you, inclusive of the day of such service, you do bring into and leave in this Court the said original paper, or in case the said original paper be not in your possession or under your control, that you within eight days after the service hereof on you, inclusive of the day of such service, do file in this Court an affidavit to that effect, and therein set forth what knowledge you have of and respecting the said paper.

(Seal.)

B. 28.

Affidavit of Handwriting.

(General Heading.)

In the matter of *C.D.*, deceased.

I, *A.B.*, of _____, make oath and say I knew and was well acquainted with *C.D.*, late of _____, deceased, who died on the _____ day of _____ at _____ for many years before and down to his death, and that during that time I have frequently seen him write and sign his name, whereby I have become well acquainted with his handwriting and signature, and having now with care and attention inspected the paper writing hereunto annexed, purporting to be the last will of the said *C.D.*, beginning thus, _____, and ending thus, _____, dated the _____ day of _____, and signed thus, "*C.D.*," I say that I believe [the whole body and contents of the said will, together with] the signature "*C.D.*" thereto, to be the handwriting of the said *C.D.*, deceased.

A.B.

Sworn at _____ this }
day of _____, 18____, }
before me, *E.F.*

B. 29.

Affidavit of Finding and Condition of Will.

(General Heading.)

In the matter of *E.F.*, deceased.

I, *A.B.*, of _____, make oath and say that I am the sole executor named in the paper writing hereto annexed, purporting to be the last will of *E.F.*, late of _____, deceased (who died on the _____ day of _____, at _____, and had at his death his fixed place of abode at _____, within the jurisdiction of this Court), the said will bearing date the _____ day of _____, beginning thus, _____, ending thus, _____, and being signed thus, "*E.F.*," and that [*here describe the finding of the will, and the various obliterations, interlineations, erasures, and alterations (if any), and the general condition of the will, and state any other matters requiring to be accounted for, and clearly trace the will from the possession of the deceased in his lifetime up to the time of the making of this affidavit*]; and I lastly say that the same paper writing is now in all respects in the same condition as when found [*or as the case may be*].

A.B.

Sworn at _____ this }
day of _____, 18____, }
before me, *I.J.*

B. 30.

Affidavit of Search.

(General Heading.)

In the matter of *C.D.*, deceased.

I, *A.B.*, of _____, make oath and say that I am the sole executor named in the paper writing hereto annexed, purporting to be the last will of *C.D.*, late of deceased (who died on the _____ day of _____ 18____, at _____, and had at the time of his death his fixed place of abode at _____, within the jurisdiction of this Court), the said will beginning thus, "_____ ending thus, "In witness whereof I have hereunto set my hand this _____ day of _____ in the year of "our Lord one thousand eight hundred and fifty-four" [*or as the case may be*], and being signed thus, "*C.D.*" And referring particularly to the fact that the blank spaces originally left in the said will for the insertion of the day and the month of the date thereof have never been supplied [*or that the said will is without date, or as the case may be*], I further say that I have made inquiry of [*E.F.*, the solicitor of the said deceased], and that I have also made diligent and careful search in all places where the said deceased usually kept his papers of moment, in order to ascertain whether he had or had not left any other will, but that I had been unable to discover any other will. And I lastly say that I believe the deceased died without having left any will, codicil, or testamentary paper whatever other than the said will by me hereinbefore deposed to.

A.B.

Sworn at _____, this _____ day of _____, 18____, before me, *G.H.*, }

[*This form of affidavit is to be used when it is shown by affidavit that neither the subscribing witnesses nor any other person can depose to the precise time of the execution of the will.*]

B. 31.

Notice to Prohibit Grant of Probate or Administration.

(General Heading.)

In the matter of *A.B.*, deceased.

Let nothing be done in the matter of *A.B.*, late of deceased, who died on the _____ day of _____ at _____, and had at the time of his death his fixed place of abode at _____, within the jurisdiction of this Court, without warning being given to *C.D.*, of _____, [*or to E.F.*, of _____], the attorney of *G.H.*, of _____.

Dated this _____ day of _____, 18____, (Signed) _____, *C.D.*, of _____, [*or E.F.*, of _____], the attorney of *G.H.*, of _____.

B. 32.

Warning to Person Filing Notice to Prohibit Grant.

(General Heading.)

In the matter of *A.B.*, late of _____ deceased.
To *C.D.*, of _____, [*or to E.F.*, of _____],
attorney of *G.H.*, of _____.

You are hereby warned, within six days after the service of this warning upon you, inclusive of the day of such service, to come to this Court and file therein an affidavit setting forth your [or your client's] interest in this matter ; and in default of your so doing this Court will proceed to all such acts and things as shall be needful to be done in this matter.

NOTE.—This warning is issued at the instance of R.S., of [here state what interest R.S. has, and if under a will or codicil state its date].

(Seal.)

B. 33.

List of Probates and Administrations.

(General Heading.)

The [1st] day of [August], 18[] l.

List of Probates and Administrations granted by this Court up to the 1st day of July 18 , and not included in any previous List.

Date of Grant.	Name in full of Deceased.	His or her Business, Profession, or other Description.	Place of his or her Death.	Time of his or her Death.	Name and Description of each Executor or Administrator taking Probate or Administration.	Value of the Personal Property.

(Signed) X.Y.

(Seal.)

PART C.—CRIMINAL.

83. *Application of Part C.*

The provisions in Part C. apply to criminal proceedings only.

84. *Charge.*

- (1.) Criminal proceedings are begun by a charge.
- (2.) The charge is made before the Court by the person preferring it (called the prosecutor).
- (3.) The Court makes at the time a minute in writing of the charge, stating the name of the prosecutor, the name of the person against whom the charge is made (called the accused), and the substance of the offence. (Form C. 1.)

85. *Process to compel Appearance.*

If the accused is not already in custody, his appearance is compelled by summons or by warrant according to the circumstance of the case.

86. *Summons.*

- (1.) For the issuing of a summons it is not necessary that the charge be sworn to unless in any case the Court so requires.
- (2.) A summons to compel appearance is a document under the seal of the Court in the Form C. 2, or some form to the like effect. It states the substance of the charge, and names a time and place at which the accused is commanded to appear.
- (3.) The summons is served by an officer of the Court.

87. Warrant of Arrest.

(1.) A warrant to arrest the accused is not issued in the first instance unless the charge is sworn to by the prosecutor or some other person.

(2.) If the charge is sworn to, and the procedure by way of summons appears to the Court to be ineffective, a warrant may issue in the first instance instead of a summons.

(3.) If the accused having been in the first instance summoned fails to obey the summons, the Court may on proof of service of the summons issue a warrant.

(4.) A warrant of arrest is a document under the seal of the Court in the Form C. 3, or some Form to the like effect, addressed to the officer of the Court. It states the name of the accused and the substance of the charge, and requires the person executing it to arrest the accused and bring him before the Court. It need not be made returnable at any particular time, and remains in force until executed.

88. Form of Charge.

The description of an offence in the words of any Act of Parliament under which the offence arises, or if the offence charged is one against the Pacific Order, or the Queen's Regulations, then in the words of that Order, or in either case in similar words, is sufficient.

89. Bringing Persons arrested before the Court.

(1.) Where a person is arrested on a charge under a warrant he must, if practicable, be brought before the Court within 48 hours from the time of his arrest.

(2.) If in any case more than 48 hours elapse between the arrest of the accused and his being brought before the Court, the fact, and the reason for the delay, must be recorded in the minutes.

90. Bail.

(1.) The mode of giving bail is by recognisance binding the accused to appear as and when required. (Forms C. 13, C. 14.)

(2.) The recognisance is entered into by the accused with or without sureties, as the Court thinks fit.

(3.) On the completion of the recognisance the accused is discharged from custody.

(4.) If a person out on bail fails to appear when required, the Court in addition to forfeiting his recognisance, may, if it thinks fit, issue a warrant for his arrest. (Form C. 3.)

91. Preliminary Examination.

The object of a preliminary examination is to inquire whether there is reasonable ground for putting the accused upon his trial, and whether the attendance of the necessary witnesses at the place of trial can be secured, and to determine whether the accused ought to be removed for trial or tried in the district.

92. Procedure at Preliminary Examination.

(1.) The preliminary examination is conducted by the Court in the presence of the accused.

(2.) At the preliminary examination the Court takes down in writing the evidence of the witnesses for the prosecution and of the witnesses (if any) tendered for examination by the accused, and enters it in the minutes. The evidence of a witness when so taken down is called a deposition. (Form C. 5.)

(3.) The deposition of each witness is read over to the witness as soon as his evidence is finished, and signed by him at the time.

93. *Discharge of the Accused.*

If the Court, after hearing the evidence, is of opinion that there is no reasonable ground for putting the accused on his trial, the accused, if in custody, is discharged.

94. *Order for Trial.*

If the Court considers the evidence sufficient to put the accused on his trial, the Court either makes an order for the removal of the accused for trial or makes an order for the trial of the accused before the proper Court. In either case the order made, which is recorded in the minutes (Forms C. 6, C. 7), states the charge as it appears to the Court to be sustainable on the evidence.

95. *Order for Removal for Trial.*

If an order is made for the removal of the accused for trial, the following provisions apply—

- (1.) The Court forthwith issues a warrant of removal.
- (2.) A warrant of removal for trial is a document in the Form C. 16, or some similar form, sealed with the seal of the Court, and addressed to an officer of the Court. It is issued in duplicate, and both copies are delivered to the person executing it.
- (3.) Pending the execution of the warrant the Court either admits the accused to bail, or orders him to be kept in custody. In the latter case the warrant of removal is indorsed in the Form C. 16, or in some similar Form.
- (4.) The Court transmits copies, certified under the hand of the judge and under the seal of the Court, of the depositions and of the order for removal for trial to the Court before which the accused person is ordered to be tried.

96. *Order for Trial before the Court.*

If an order is made for the trial of the accused before the Court, the following provisions apply :—

- (1.) The Court makes a special note in the minutes of the reasons for not removing the trial.
- (2.) The Court may bind by recognisance the prosecutor and the witnesses for the prosecution and for the defence to appear at the trial and prosecute or give evidence. (Forms C. 13, C. 14.)
- (3.) If the prosecutor or any of the witnesses, being a person subject to the jurisdiction of the Court, refuses to enter into such recognisance, the Court may order him to be kept in custody until the trial, unless in the meantime he enters into such recognisance. In such case the Court issues a warrant of commitment in the Form C. 15, or some similar Form.
- (4.) Until the trial, the Court either admits the accused to bail or orders him to be kept in custody. In the latter case the Court issues a warrant of commitment in the Form C. 4, or some Form to the like effect.
- (5.) The accused person ordered for trial is entitled to a copy of the charge, and on payment of a sum not exceeding 6d. per one hundred words, or, if the Court thinks fit, without payment, to a copy of the depositions. The Court, when ordering the accused for trial, informs him of this provision.
- (6.) The date of the trial is named in the order for trial, and the prisoner is informed of such date at the time when the order is made. The trial may be held on a subsequent day if the Court so decides ; but except for special reasons to be recorded in the minutes, the date named for trial must be not later than 14 days after the close of the preliminary examination.

97. *Place of Preliminary Examination.*

The public have no right of access to the place in which a preliminary examination is held.

98. *Notice to Prosecutor of Trial.*

Notice is given by the Court to the prosecutor of the time and place appointed for the trial. (Form C. 8.)

99. *Absence of Parties.*

(1.) If at the appointed time and place the prosecutor is not present the Court dismisses the charge unless for some reason, to be recorded in the minutes, it sees fit to adjourn the trial. (Form C. 10.)

(2.) Except in the case provided for by Rule 73 (5), no charge can be heard in the absence of the accused.

100. *Hearing.*

If at the time and place appointed for the trial, or adjourned trial, both the prosecutor and the accused are present, the Court and (if the case is tried with assessors) the assessors proceed to hear and dispose of the charge.

(1.) The substance of the charge is stated to the accused, and he is asked if he admits or denies the truth.

(2.) If he admits the truth of the charge the Court may convict him.

(3.) If he denies the truth of the charge the Court proceeds to hear the evidence.

(4.) If he asserts that he has been previously convicted or acquitted of the same charge, the Court inquires into and ascertains the truth of his answer before proceeding to hear the evidence.

(5.) If he appears to be of unsound mind the Court may from time to time make such order for his safe keeping as the Court thinks fit.

101. *Decision.*

After hearing the evidence, the Court considers the whole matter, and either convicts the accused or dismisses the charge.

102. *Conviction and Sentence.*

In cases of conviction the Court enters on the minutes the conviction and the sentence (if any), together with any order which the Court may make ordering the person convicted to give security for future good behaviour, or to be deported, or to pay damages or costs. (Form C. 9.)

103. *Dismissal.*

(1.) When a charge is dismissed an order of dismissal is entered on the minutes, together with any order requiring the prosecutor to pay costs which the Court may make. (Forms C. 10, C. 11.)

(2.) A certificate of dismissal, sealed with the seal of the Court, is, on the application of the accused, furnished to him by the Court. (Form C. 12.)

(3.) Such certificate is conclusive evidence of the dismissal of the charge, and a bar to any subsequent charge against the accused in respect of the same matter.

104. *Place of Trial*

The place of trial is an open Court, and the public have a right of access thereto.

*General Provisions.*105. *Accused and Husband or Wife competent Witnesses.*

(1.) In all criminal proceedings, including preliminary examinations, the accused and the husband or wife of the accused are competent, but not compellable, to give evidence.

(2.) When the accused, or the husband or wife of the accused, offer themselves as witnesses, they take the oath or declaration required of witnesses, and are examined and subject to be cross-examined in the same way as ordinary witnesses.

106. *Adjournment, &c.*

(1.) Where a preliminary examination or trial cannot conveniently be finished in a single day it is resumed, if possible, on the next day, and so on from day to day (except Sundays) until it is brought to an end.

(2.) But the Court may, in the presence and hearing of the parties, and for reasons to be recorded in the minutes, postpone or adjourn a preliminary examination or trial when and so often as justice requires, but if the accused is kept in custody no postponement or adjournment shall be for more than fourteen days.

(3.) Such postponement or adjournment must be to a stated time and place, and in the interval the Court may, in its discretion, either suffer the accused to go at large, or order him to be kept in custody, or admit him to bail.

(4.) If the accused is ordered to be kept in custody the Court issues a warrant of commitment in the Form C. 4, or some form to the like effect.

(5.) If at the time and place to which a preliminary examination or trial has been postponed or adjourned the accused does not appear, the Court may, if it thinks fit, for reasons to be recorded in the minutes, proceed as if the accused were present.

107. *Security to be of Good Behaviour.*

When the Court requires a person to give security to keep the peace or to be of good behaviour, a recognisance in the Form C. 13, or some similar Form, may be used.

Execution.

108. *Imprisonment.*

(1.) Where on a conviction the offender is sentenced to be imprisoned, the Court issues a warrant of imprisonment (Form C. 19), or a warrant of removal for imprisonment. (Form C. 17.)

(2.) When a warrant of removal for imprisonment is issued, the Court enters on the minutes the grounds for issuing such warrant. The Court in such case transmits to the proper gaoler, constable, magistrate, or officer, in the place selected for the execution of the sentence, a certified copy of the conviction and sentence, and a written notice that a warrant of removal for imprisonment has been issued.

109. *Deportation.*

When a person makes default in giving security to keep the peace or be of good behaviour as required by the Court, the Court may issue a warrant of deportation. (Form C. 18.)

110. *Payment of Money.*

(1.) Where the Court orders money to be paid by an accused person or by a prosecutor, by way of fine or damages, or for costs, the order may be enforced by seizure and sale, in the same manner as a judgment in an action for payment of money.

(2.) If after execution by seizure and sale the order remains wholly or in part unsatisfied, the Court may issue a warrant of commitment (Form C. 20), committing the person who has disobeyed the order to prison, without hard labour, for a term not exceeding one month for every 20*l.* or part thereof then unpaid unless the money and all expenses of the commitment and conveyance to prison, the several amounts of which are specified in the warrant, are sooner paid.

(3.) Upon payment or tender by the prisoner, or some person on his behalf, of the amounts specified in the warrant, the prisoner is entitled to be discharged if he is in custody for no other matter.

111. *Sale of Goods forfeited.*

(1.) When any goods smuggled or imported, or any ship, boat, cask, or case, or receptacle containing such goods, are, on conviction of an

offender, declared forfeited to Her Majesty, the Court may issue a warrant of sale. (Form C. 21.)

(2.) The warrant is addressed to an officer of the Court, and authorises and directs him to sell by public auction the goods therein named.

(3.) The officer pays the proceeds of the sale into Court, and the Court may deduct therefrom a reasonable sum for the expenses of the sale.

112. Search Warrant.

(1.) If it is made to appear to the Court by the oath or declaration of a credible witness that there is reasonable cause to suspect that any person subject to the jurisdiction of the Court has on his premises any property or thing, on or by or with respect to which any crime or offence cognisable by the Court has been committed, the Court may issue a search warrant.

(2.) The information of the applicant for a search warrant is taken down in writing and signed by him. It must describe the goods, the premises on which they are suspected to be, and the grounds for the suspicion.

(3.) The search warrant is directed to an officer therein named, and he alone has authority to execute it, but in executing it he may be assisted by other persons.

(4.) The search warrant authorises and directs the officer to search the premises therein named, and those only, for the goods therein named, and those only, and to seize and bring before the Court any of the said goods which he there finds. The goods and premises therein named in the warrant are those described in the information of the applicant. (Form C. 23.)

(5.) The search warrant may also authorise and direct the officer to arrest the occupier of the premises if any of the goods are there found.

(6.) If the premises are closed, and the officer, after demanding admission and showing his authority, is refused entrance, he may break open the doors.

(7.) A search warrant may not be executed in the night-time.

(8.) If it appears to the Court that a search warrant has been applied for maliciously and without reasonable and probable cause, he may, in addition to any punishment to which the applicant may be liable for giving false evidence, order him to pay damages to the occupier of the premises searched.

113. Time and Place of Execution.

(1.) A warrant of arrest, or of commitment, or of removal, or a search warrant, may be issued or executed on any day.

(2.) Any summons, warrant, or order, issued or made in a criminal proceeding, may be executed anywhere within the limits of this Order, and every Court is to aid in the execution thereof.

NOTE:—An additional Rule (114) relating to Judgments against Natives was made by the Assistant High Commissioner, March 16, 1896.

CRIMINAL FORMS (C).

C. 1.

Charge.

(General Heading.)

C.D., of
offence).

[labourer], charges that [state the

The charge may be stated as follows (for instance):

(a.) On the day of , at
the above-named A.B. did unlawfully assault and beat the said C.D.
[being then one of the officers of at
and being then and there in the due execution of his office as such officer].

(b.) On the _____ day of _____, at _____, the above-named A.B. did threaten to shoot the said C.D. and that he, the said C.D., believes that he is in danger of receiving bodily injury from the said A.B.

(c.) On the _____ day of _____, at _____, the above-named A.B. did unlawfully and knowingly, by certain false pretences, obtain from the said C.D. the sum of _____ in money [or a certain valuable security (namely) a banker's order for the payment of _____ and of the value of _____], the same being the property of the said C.D., with intent thereby then and there to cheat and defraud the said C. D. of the same.

(d.) On the _____ day of _____, at _____, the above-named A.B. did feloniously forge a certain bill of exchange for payment of _____, with intent thereby then and there to defraud.

(e.) On the _____ day of _____, at _____, the above-named A.B. did feloniously steal the sum of _____ in money, the same being the property of the said C.D.,
(Seal.)

C. 2.

Summons to Accused.

(General Heading.)

To A.B., of _____ [labourer].

You have this day been charged [on oath], before this Court, for that you [stating shortly the offence charged as in Form C. 1].

Therefore you are hereby commanded to appear before this Court on [Saturday next], the _____ day of _____, at [10 o'clock in the forenoon], at [_____], to answer to the said charge, and to be further dealt with according to law.

(Seal.)

C. 3.

Warrant of Arrest.

(General Heading.)

To X.Y., and other officers of the Court.

The above-named A.B. is charged before this Court for that he [stating shortly the offence charged as in Form C. 1].

Therefore you are hereby commanded to arrest the said A.B., and to bring him before this Court to answer the said charge, and to be dealt with according to law.

Dated this _____

(Seal.)

C. 4.

Warrant of Commitment for Safe Custody of "the Accused during an Adjournment of the Hearing, or where the Hearing is not at once proceeded with, or after an Order for Trial.

(General Heading.)

To X.Y., officer of this Court, and to the keeper of [_____] prison, [_____].

The hearing of the above charge is adjourned [or is ordered to take place on _____], [or cannot be at once proceeded with], and it is necessary that the above-named A.B. should in the meantime be kept in safe custody.

Therefore you are hereby commanded, you the above-named X.Y., forthwith to convey the said A.B. to the above-mentioned prison, and there deliver him to the keeper thereof, together with this warrant. And

you, the keeper of the said prison, to receive the said A.B. into your custody in the said prison, and there safely keep him until the day of _____ instant, and then to have him before this Court at [10 o'clock in the forenoon] of the same day, at _____, to answer further to the said charge, and to be further dealt with according to law.

Dated this _____ day of _____

(Seal.)

PRELIMINARY EXAMINATION.

C. 5.

Deposition.

(General Heading.)

In the presence and hearing of the above-named A.B. [accused], C.D., of _____, deposes on oath as follows:—

[State the evidence as nearly as possible in the words used by the witness: let the deposition be read over to him; and then let him sign it.]

If the accused offers himself or his wife or husband as a witness, the deposition will begin as follows:—

The above-named A.B. offers himself as a witness, and deposes on oath as follows [or P.Q., the wife or husband of the said A.B., offers himself as a witness, and, in the presence and hearing of the said A.B., deposes on oath as follows]:—

C. 6.

Order for Removal for Trial.

(General Heading.)

The Court having heard and considered the evidence at the preliminary examination, orders that the above-named A.B. be removed to _____, there to be put on his trial before _____ on the following charge:—

For that he, &c. [state charge as it appears to the Court to be sustainable on the evidence].

Dated this _____

(Seal.)

C. 7.

Order for Trial before the Court with Assessors.

(General Heading.)

The Court having heard and considered the evidence at the preliminary examination, orders that the above-named A.B. be put on his trial before this Court sitting with assessors on the following charge:—

For that he, &c. [state charge as it appears to the Court to be sustainable on the evidence].

And the Court orders that the said trial be held at _____ on _____

Dated this _____

(Seal.)

C. 8.

Notice to Prosecutor of Trial.

(General Heading.)

Take notice that the above charge will be heard by this Court at _____, on the _____ day of _____, at _____ o'clock,

Dated this _____

(Seal.)

TRIAL.

C. 9.

Conviction and Sentence.

(General Heading.)

The above-named A.B. stands convicted before the Court for that [state offence and time and place thereof].

Thereupon the Court sentences the said A.B. for his said offence [here insert such one or more of the following paragraphs as is applicable to the case]:

- (a.) To be imprisoned [and kept to hard labour] [or to be kept in penal servitude] for _____ ;
- (b.) To pay the sum of £ _____ as a fine for his said offence ;
- (c.) To pay to C.D., the prosecutor, the sum of £ _____ , as damages in respect of the said offence ;
- (d.) To pay to C.D. the sum of £ _____ for the costs of the said C.D. ;
- (e.) To give security for his future good behaviour by entering forthwith [or within _____ days] into a recognisance [with two sureties] in the sum of £ _____ ;
- (f.) To be deported forthwith [or after the expiration of the said term of imprisonment, or penal servitude, or in default of giving security within _____] to _____

The said sum of _____ [or several sums] of _____ are to be paid into Court on or before the _____ day of _____ [or forthwith]. (Seal.)

C. 10.

Dismissal on Non-appearance of Prosecutor.

(General Heading.)

The prosecutor not appearing, the Court dismisses the above-mentioned charge.

(Seal.)

C. 11.

Dismissal on Merits.

(General Heading.)

The Court having considered the matter of the above-mentioned charge determines that the same is not proved, and dismisses it.

(Seal.)

[If prosecutor ordered to pay costs add to C. 10 or C. 11 :

And the Court orders that C.D., the prosecutor, do pay to the said A.B. the sum of _____ for the costs of the said A.B.

The said sum is to be paid into Court on or before the _____ day of _____ (or _____ forthwith)].

C. 12.

Certificate of Dismissal

(General Heading.)

This Court hereby certifies that a charge preferred by C.D. against the above-named A.B. for that

[State the charge as originally preferred, or as amended, or as set out in the order for trial.]

was this day considered and dismissed by this Court [or was this day, the prosecutor not appearing in support thereof, dismissed by this Court].

Dated this _____ day of _____ . (Seal.)

C. 13.

Recognisance (without Sureties).

(General Heading.)

I, the undersigned, acknowledge myself to owe our Sovereign Lady Queen Victoria the sum written opposite my signature hereto, to be raised by seizure and sale of my goods if the condition hereon indorsed is not fulfilled.

Dated this day of .

Signature.	Address.	Description.	Sum.
A.B.			

[Indorsement.]

The condition of the within-written recognisance is as follows : [*as the case may be*].

(a.) *Bail for Appearance of Accused.*

If the within-named A.B. appears before this Court on at , to answer the within-mentioned charge, then the said recognisance shall be void, and otherwise it shall be in force.

(b.) *For Good Behaviour of Accused.*

If the within-named A.B. keeps the public peace and is of good behaviour towards all persons (and especially towards P.Q.) during , then the said recognisance shall be void, and otherwise it shall be in force.

(c.) *To Prosecute or give Evidence.*

If the within-named C.D. appears before this Court on at , and then and there prosecutes [and] gives evidence [or,] on] the within-mentioned charge, then the said recognisance shall be void, and otherwise it shall be in force.

C. 14.

Recognisance (with Sureties).

(General Heading.)

We, the undersigned, severally acknowledge ourselves to owe to our Sovereign Lady Queen Victoria the sums set opposite our respective signatures, hereto to be raised by seizure and sale of our several goods if the condition hereon indorsed is not fulfilled.

Dated this day of .

Signatures.	Addresses.	Description.	Sums.
A.B.			
L.M.			
N.O.			

(Indorsement as in C. 13.)

C. 15.

Warrant of Commitment for Refusal to enter into Recognisance.

(General Heading.)

To X.Y., officer of this Court, and to the keeper of the []
prison at []
E.F., of [] [labourer], being now examined as a witness
before this Court concerning the above-mentioned charge, and being
required to enter into a recognisance to give evidence concerning the
same on the trial thereof [or as the case may be] refuses to do so.

Therefore, you are hereby commanded, you X.Y., to take the said E.F.
and convey him to the above-mentioned prison, and there deliver him to
the keeper thereof, with this warrant ;

And you, the keeper of that prison, to receive the said E.F. into your
custody there, and to keep him there safely until after the trial of the
said charge, unless he, in the meantime, consents to enter into such recog-
nizance as aforesaid.

Dated this _____ day of _____, 18 . (Seal.)

Warrants.

C. 16.

Warrant of Removal for Trial.

(General Heading.)

To X.Y., and other officers of the Court.

This Court having ordered that the above-named A.B. be removed for
trial to _____, there to be put on his trial before

You are hereby commanded, with proper assistance, to convey the said
A.B. to _____, and there deliver him to the proper gaoler, con-
stable, magistrate, or other officer of the said Court, together with this
warrant, or the duplicate thereof.

(Seal.)

[Indorsement of Committal where Removal cannot be at once effected.]

To X.Y., officer of the Court.

The execution of the within warrant cannot be at once proceeded with.

Therefore, you are hereby commanded to receive the within-named
A.B. into your custody, and there safely keep him until you are able to
execute the within warrant.

(Seal.)

C. 17.

Warrant of Removal for Imprisonment.

(General Heading.)

To X.Y., and other officers of the Court.

The above-named A.B. having been on the _____ day
of _____, convicted before this Court for that [state offence].

The Court did thereupon sentence the said A.B. for his said offence
to be imprisoned for [with
hard labour].

You are therefore hereby commanded, with proper assistance, to convey
the said A.B. to [], that the said sentence
may there be carried into effect, and you are there to deliver him to the
magistrate, gaoler, or other officer to whom it may appertain to give effect
to any sentence passed by the Court there exercising criminal jurisdiction,
together with this warrant, or a duplicate thereof.

(Seal.)

[Indorsement of Committal pending Removal (if necessary) as in
Form C. 16.]

C. 17A.

Order for Deportation.

(General Heading.)

Whereas (A.B. has been convicted of the crime or offence of
, *or as the case may be*, it appears to the Court that A.B.
is about to commit a breach of the peace, *or as the case may be*, it appears
to the Court that A.B. is about to commit an offence against the Pacific
Islanders Protection Acts, 1872 and 1875, *or as the case may be*, it appears
to the Court that the conduct of A.B. is likely to produce or excite a breach
of the peace).

And whereas A.B. has been ordered to give security for peace and good
behaviour, and has made default in giving such security.

It is ordered that A.B. be deported (forthwith, *or as the case may be*,
after undergoing the sentence passed upon him) to
and that A.B. do pay to the expenses of his deportation,
not exceeding (5l.).

And this order is to be in force (for one year from the date hereof, *or as
the case may be*).

Dated,

Signed,

(Seal.)

C. 17B.

Order of Prohibition.

Whereas it has been shown by information on oath to the satisfaction
of me, Her Britannic Majesty's High Commissioner for the Western
Pacific, that A.B., a British subject (is disaffected to Her Majesty's
Government, *or as the case may be*, that A.B., a person subject to the
jurisdiction of the Court, has committed an offence against the Pacific
Islanders Protection Acts, 1872 and 1875, *or as the case may be*, is about
to commit an offence against the Pacific Islanders Protection Acts, 1872
and 1875, *or as the case may be*, is dangerous to peace and good order within
the limits of the Pacific Order in Council, 1893).

I do hereby prohibit A.B. from being within the limits of the said Order in
Council (*or as the case may be*, within
during the period of (one year, *or as the case may be*), from the date hereof.

Dated,

Signed,

(Seal.)

C. 18.

Warrant of Deportation.

(General Heading, in cases where deportation is ordered on
conviction.)

To X.Y., and other officers of the Court.

A.B., of , having been on
ordered by this Court to be deported from to

You are therefore hereby commanded, with proper assistance, to remove
the said A.B., and to convey him to , and there to discharge
him from your custody.

(Seal.)

C. 19.

Warrant of Imprisonment.

(General Heading.)

To X.Y., officer of this Court, and to the keeper of the prison at

The above-named A.B. is sentenced by this Court to be imprisoned
[and to be kept to hard labour] for from
this day.

Therefore you are hereby commanded, you, X.Y., to convey the said A.B. to the above-mentioned prison, and there deliver him to the keeper thereof, with this warrant.

And you, the keeper of that prison, to receive the said A.B. into your custody, there and then to imprison him [and keep him to hard labour] for the time aforesaid.

Dated this

(Seal.)

C. 20.

Warrant of Imprisonment, where Order for Payment not satisfied by Seizure and Sale.

(General Heading.)

To X.Y., officer of this Court, and to the keeper of the prison at

At the hearing of the above-mentioned charge the above-named A.B. [or C.D., the prosecutor] was ordered by the Court to pay the sum of £ , of which sum £ [or the whole of which sum] after execution remains unpaid.

You are therefore hereby commanded, you, X.Y., to convey the within-named A.B. [or C.D.] to the prison at [, and there deliver him to the keeper thereof, with this warrant.

And you, the keeper of that prison, to receive the said A.B. [or C.D.] into your custody there, and there to imprison him without hard labour for [forty days] from the date of this warrant, unless the said sum of [£], with the further sum of [£], as and for the expenses of the intended execution of the said warrant and of his commitment, and of the conveying of him to prison is sooner paid.

Dated this day of , 18 .

C. 21.

Warrant for Sale of Goods forfeited.

(General Heading.)

To X.Y., officer of the Court.

The Court having, in pursuance of the Pacific Order in Council, 189 , on the conviction of the above-named A.B. on the above-mentioned charge, declared forfeited to Her Majesty Queen Victoria the following goods :

[Set out list of goods.]

You are hereby commanded to forthwith seize the said goods, and to sell the same at a convenient time and place by public auction, and forthwith, after execution of this warrant, you are to return the same to the Court, with the place, time, and mode of execution indorsed thereon, and with the proceeds of such sale.

Dated this

(Seal.)

C. 22.

Information to ground Search Warrant.

(General Heading.)

Criminal jurisdiction.

C.D., of
allowed by
that on
viz. :

, on his oath [or having made the declaration
of the General Rules of Procedure] complains
the following goods of the value of ,

[Describe goods.]

were unlawfully carried away from to
by some person or persons unknown, and that he has reasonable cause to
suspect, and does suspect, that these goods, or some of them, are concealed
in the premises [describe them] occupied by *A.B.*, of
; for he the said *C.D.* says that

[State grounds for suspicion that goods are there.]

C. 23.

Search Warrant.

(Heading as in C. 22.)

To *X.Y.*, an officer of this Court.
C.D., of , has this day made information on oath before
this Court that [copy from information (Form) down to for he].

And it appears to this Court that [according to reasonable suspicion]
the said goods, or some of them, are concealed as aforesaid.

You are therefore hereby authorised and commanded, with proper
assistance, by day or night [or in case of reasonable suspicion only, in the
day-time], to enter the said [dwelling-house] of the said *A.B.*, and there
to diligently search for the said goods, and if the same, or any thereof, are
found on search, to bring the goods so found [and also the said *A.B.*] before
this Court, to be dealt with according to law.

(Seal.)

SCALE OF FEES.*

To be taken in Her Britannic Majesty's High Commissioner's Court for
the Western Pacific under the Pacific Order in Council of 1893.

	£	s.	d.
Writ of summons	0	4	0
Renewal of writ of summons	0	2	6
Order of dismissal for failure to proceed	0	2	6
Further particulars of claim	0	2	6
Written statement of claim or defence specially ordered	0	5	0
Commission to examine witnesses exclusive of seal	0	5	0
Affixing the Seal of the Court to any commission or document not specially provided for	0	5	0
General appointment as Commissioner of Court to take affidavits including seal	1	1	0

* Rules made by the High Commissioner, December 16, 1897, under Art. 102 of the Order prescribe: (1) Fees for copies of Proceedings or Evidence in Civil and Criminal Cases; (2) Fees on Hearing and Adjournment; (3) Fees (in which an amendment was made, April 11, 1899) as to Probates and Administrations, with a provision for exemption where estate duty has been paid in the United Kingdom; and (4) Fees in connection with Bills of Sale.

	£	s	d
Every oath to the truth of an affidavit or deposition administered by any member of the Court, or by the registrar, or by a commissioner appointed to take affidavits	0	2	0
Every oath administered after office hours	0	5	0
Marking every exhibit attached to any affidavit	0	1	0
Examination of witnesses by registrar or Commissioner of the Court, first hour	0	10	0
For each subsequent hour or fraction of an hour	0	5	0
Subpoena for witness	0	2	0
Every name beyond the first	0	0	6
Entering judgment by default	0	2	6
Entering judgment in other cases	0	5	0
Order or judgment of the Court formally drawn up, passed, and certified by the seal of the Court	0	10	0
On payment of money into Court	Two pounds per centum.		
Order of injunction before service of a writ of summons	0	5	0
Order to sequester money or goods before service of writ	0	5	0
Order to stop clearance of vessel before or after service of writ	0	5	0
Order to hold to bail before service of writ	0	5	0
Order to attach property before service of writ	0	5	0
Justify each bail	0	2	6
Recognisance by person arrested, with or without sureties	0	2	6
Bail by absconding defendant	0	2	6
Exemplification of will (including seal), not exceeding five folios	1	0	0
For each additional folio	0	1	0
Entering counter-claim by defendant	0	5	0
Entering by plaintiff notice of discontinuance of action	0	2	6
Issues settled by the parties or the Court	0	5	0
Entering cause for trial	0	2	6
Every exhibit used on trial	0	1	0
Order of execution by seizure and sale of goods	0	5	0
Order of sequestration against the property of judgment debtor	0	5	0
Order of imprisonment of judgment debtor	0	5	0
Every recognisance or bond taken not already provided for	0	5	0
Filing bill of costs for taxation	0	5	0
Taxing costs per hour	0	5	0
Rule of Court nisi or otherwise	0	5	0
Every application made in Chambers whether granted or refused, or whether any order is made or not	0	2	6
Attendance before registrar or Commissioner specially appointed by the Court on inquiry or account under order or rule, each party, first hour or fraction	0	5	0
For each subsequent hour or fraction	0	1	0
Every certificate under the hand of a member of the Court	0	5	0
Every certificate under the hand of the registrar	0	2	6
Order for re-hearing	0	5	0
Bond for prosecution of appeal	0	10	0
Sum to be paid for expense of transmission of record (to be estimated by registrar in each case).			
Appeal motion paper with or without argument	0	5	0
Respondent's argument	0	5	0
Reference to arbitration	0	5	0
Award under such reference	0	5	0
Decree of the Court in conformity with award	0	5	0
For search in books of registrar	0	2	6
For search among papers in causes not current	0	5	0
Filing any paper other than those provided for	0	1	0

FEES PAYABLE TO THE OFFICER OF THE COURT.

For service of writ of summons or subpoena on each defendant or witness not exceeding one mile from court house	0	2	6
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	£	s.	d.
In addition to above there shall be mileage* on executing every process where the distance exceeds one mile from court-house	0	2	0
Service of every injunction or order for sequestration of money or goods before service of writ	0	2	6
Mileage* where distance exceeds one mile from court-house, in addition to above	0	2	0
Service of order to stop clearance of vessel before or after writ	0	5	0
Arrest of vessel	0	10	0
And necessary expenses for both of the above items.			
Service of order to hold to bail or attach property before service of writ	0	2	6
And mileage* as before	0	2	0
Arrest of absconding debtor, not exceeding two miles	0	10	0
If beyond two miles for the first day	1	10	0
For every day occupied beyond the first	0	12	0
And travelling expenses reasonably and actually incurred.			
Seizure of property about to be removed	1	0	0
Executing every writ of seizure and sale on judgment—			
On first 100l.	2	10	0
For all above	1½	per cent.	
Precept to bailiff	0	2	6
To each man left in possession, per diem	0	8	0
Reasonable travelling expenses.			
Arrest of debtor on judgment same as arrest of absconding debtor.			
For executing every writ other than those provided for	0	5	0
And mileage* as before.			
Every assessor in a civil case shall receive for attendance, for each day or part of a day, 1l. 1s.			

FEES TO BE TAKEN IN CRIMINAL CASES.

Summons, copy and service within two miles	0	2	6
Subpcna not including more than four names	0	1	6
Copies each	0	1	0
Swearing or taking any information or affidavit or taking any declaration	0	1	0
Marking exhibit to information, affidavit, or declaration	0	0	6
Warrant to apprehend	0	2	6
Search warrant	0	5	0
Recognisance and notice of nature thereof	0	5	0
Extension of same	0	2	6
Serving any document over two miles and not exceeding ten miles, per mile	0	1	0
Exceeding ten miles, for each day occupied by officer of Court	0	12	0
And travelling expenses reasonably incurred.			
Cost and charges of distress, or of taking and keeping a distress—			
Warrant of distress, including execution thereof, but not including costs of removal, possession, or sale	1	0	0
Expenses of possession, not exceeding per diem	0	5	0
Actual expenses incurred in removing and storing goods.			
Expenses of sale for every twenty shillings or fraction of twenty shillings of the price realised	0	1	6

Fees will not be taken on any information or other proceeding by any officer of police, or other public officer in the discharge of his duty, whether in the service of Her Britannic Majesty, or of any Government recognised by Her Majesty as exercising jurisdiction in the place where the information is laid.

Fees will be remitted in all cases in which the accused is committed for trial before the Court with assessors, or out of the Western Pacific.

* The officer of the Court may only charge on mileage actually and necessarily travelled in the execution of his duty. Mileage is not calculated on the return journey. When an officer is engaged on more than one service the mileage is to be apportioned between them. If by reason of difficulty of communication the remuneration provided for in this scale is, in the opinion of the Court, inadequate, the officer of the Court may elect to receive in lieu of fees and mileage his travelling expenses reasonably incurred, and an allowance for loss of time not exceeding 12s. a day.

9. Persia.

THE PERSIAN ORDER IN COUNCIL, 1889.*

At the Court at Windsor, the 13th day of December, 1889.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.
Earl of Coventry
Lord Morris.

Sir William Hart Dyke,
Bart.
Mr. Ritchie.

Whereas by treaty, grant, usage, sufferance, and other lawful means, Her Majesty the Queen has power and jurisdiction in Persia :

Now, therefore, Her Majesty, by virtue and in exercise of the powers by the Foreign Jurisdiction Acts, 1843 to 1878,† or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

1. This Order may be cited as “The Persia Order in Council, 1889.”

2. This Order is divided into parts as follows :—

Parts.	Subject.	Articles.
I.	Preliminary	3-4
II.	General Provisions	5-9
III.	Courts	10-11
IV.	Registration of Persons	12-15
V.	Assessors	16-18
VI.	General Jurisdiction and Procedure	19-66
VII.	Civil Jurisdiction and Procedure	67-178
VIII.	Proceedings on Death	179-213
IX.	Appeal to Consul-General	214-229
X.	Appeal to Her Majesty in Council	230-232
XI.	Criminal Authority and Procedure	233-281
XII.	Miscellaneous	282-289
XIII.	Supplemental	290-299

I.—Preliminary.

3. In this Order, unless the subject or context otherwise requires—

“Secretary of State” means one of Her Majesty’s Principal Secretaries of State ;

“Prescribed” means prescribed by any consular instructions or by any order or notification signed or authorised by a Secretary of State ;

* This Order is amended by The Persia (Judicial Fees) Order in Council, 1898, and The Persia (Regulation) Order in Council, 1901, printed respectively at pp. 688 and 689 below.

† 6 & 7 Vict. c. 94; 29 & 30 Vict. c. 87; 38 & 39 Vict. c. 85; 41 & 42 Vict. c. 87; now repealed and consolidated by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

- "Persia" means the dominions and territories of the Shah of Persia within the limits of this Order ;
- "Consul-General" means Her Majesty's Minister and Consul-General in Persia, or the person for the time being acting as such, with the authority or approval of a Secretary of State ;
- "Consular officer" includes any person for the time being acting by virtue of Her Majesty's Commission, or with the authority or approval of a Secretary of State, as Consul-General, Consul, or Vice-Consul, or Consular Agent ;
- "Treaty" includes any convention, agreement, or arrangement made by or on behalf of Her Majesty, and any regulation appended thereto ;
- "Court" means any Court or person exercising jurisdiction under this Order ;
- "British subject" includes a person enjoying Her Majesty's protection in so far as Her Majesty has jurisdiction in respect of any such person, and includes, by virtue of 39 & 40 Vict. c. 46,* subjects of the several Princes and States in India in alliance with Her Majesty, residing and being in Persia ;
- "Foreigner" means a person, whether a native or subject of Persia or not, who is not a British subject, as herein defined ;
- "Native" means a native or subject of Persia, or of the limits of the Persian coasts, not being a British subject ;
- "Native Indian subject" means a native of India, as defined in the Act of Parliament of 1858, "for the better government of India,"† not of European descent ;
- "Person" includes a corporation or association of persons ;
- "Will" means will, codicil, or other testamentary instrument ;
- "Office copy" mean a copy, either made under direction of the Court, or produced to the proper officer of the Court for examination with the original, and examined by him therewith, and in either case sealed with the seal of the Court as evidence of correctness ;
- "Oath" and "affidavit," and words referring thereto, or to swearing, include affirmation and declaration, or to the making of an affirmation or declaration, where an affirmation or declaration is admissible in lieu of an oath or affidavit ;
- "Proved" means shown by evidence on oath, in the form of affidavit, or other form to the satisfaction of the Court or consular officer acting or having jurisdiction in the matter ;
- "Month" means calendar month.

* The Slave Trade Act, 1876. Section 4 of this Act is repealed and consolidated by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37), ss. 15, 18.

† The Government of India Act, 1858 (21 & 22 Vict. c. 106).

The plural includes the singular, and the singular the plural, and the masculine the feminine.

Expressions referring to print or to writing include either print or writing, or a combination of both.

“ Crime ” includes offence.

4. For the purposes of this Order, the word “ Persia,” or any term or expression referring to Persia, does not (except as in this Order expressly provided) include or apply to any place for the time being included within the limits to which any other Order in Council for the time being in force relating to the Persian coasts and islands * applies, which limits are in this Order referred to as the limits of the Persian coasts.

In case of dispute or doubt whether any place is within the limits of Persia for the purposes of this Order, or is within the limits of the Persian coasts, the Consul-General may provisionally determine such dispute or question in such manner as he thinks fit, and his determination, unless and until the Secretary of State otherwise directs, shall be conclusive in all causes and matters arising under this Order.

Any provision of this Order referring to a country or place out of Persia includes any place within the limits of the Persian coasts.

II.—*General Provisions.*

5. All Her Majesty’s civil jurisdiction exercisable in Persia for the judicial hearing and determination of matters in difference, or for the administration or control of property or persons, and all Her Majesty’s criminal jurisdiction there exercisable for the repression or punishment of crimes or offences, or for the maintenance of order, shall be exercised under and according to the provisions of this Order, and not otherwise.

6. Subject to the other provisions of this Order, the civil and criminal jurisdiction aforesaid shall, as far as circumstances admit, be exercised on the principles of and in conformity with the common law, the doctrines of equity, the statute law, and other law for the time being in force in and for England, and with the powers vested in and according to the course of procedure and practice observed by and before Courts of Justice and Justices of the Peace in England, according to their respective jurisdictions and authorities.

7. Nothing in this Order shall deprive Her Majesty’s consular officers of the right to observe and to enforce the observance of, or shall deprive any person of the benefit of, any reasonable custom existing in Persia, except where this Order contains some express and specific provision incompatible with the observance thereof.

8. In any case in the decision of which, under any treaty, any of Her Majesty’s Consuls may or ought to concur, a consular officer

* See the Persian Coasts and Islands Order in Council, 1889, printed at p. 667 below.

exercising jurisdiction under this Order shall alone act on the part and on behalf of Her Majesty.

9. Crimes, offences, wrongs, breaches of contract against or affecting the person, property, or rights of natives or other foreigners as herein defined, committed by persons subject to this Order, are punishable or otherwise cognisable under the provisions of this Order, with the consent of such natives or foreigners, in the same manner as if the same were committed against or affected the person, property, or rights of British subjects.

III.—*Courts.*

10. Courts for the purposes of this Order shall be held as follows :—

- (1.) Courts of First Instance, in this Order called Provincial Courts, shall be held by such consular officers in and for such districts as the Secretary of State from time to time directs.
- (2.) The Consul-General shall at such place as the Secretary of State directs hold a Court, in this Order called the Court of the Consul-General, for the purposes of his appellate and other jurisdiction under this Order.
- (3.) The Provincial Court for the district in which the Court of the Consul-General is held may be held either by the Consul-General, or Vice-Consul, or by such other consular officer as the Secretary of State or the Consul-General directs.

If it be held by the Consul-General, the provisions of this Order relating to appeals from a Provincial Court to the Consul-General are inapplicable, and the provisions of this Order with respect to appeals to Her Majesty in Council shall have effect as if the judgment, order, decree, or sentence of the Consul-General were a judgment, order, decree, or sentence of a Provincial Court affirmed on appeal by the Consul General, and no other appeal shall lie.

11. In any matter, civil or criminal, a Court within whose district (in civil matters) the matter of complaint wholly or in part arose or happened, or the subject in dispute is wholly or partly situate, or the contract in question was wholly or partly made, or the breach thereof wholly or partly occurred, or the defendant resides or carries on business, or (in criminal matters) the crime was wholly or partly committed, or the accused person happens to be, shall have jurisdiction, and may deal with the case, as if every material fact or thing had happened, or was situate, within its district ; but any such Court, if, in its opinion, justice or convenience so requires, may decline or suspend the exercise of jurisdiction, and may, if it thinks necessary or just, require security from the defendant or accused person for his appearance before some other Court having jurisdiction in the matter, and for obedience to any judgment or order of such other Court, and

further, in a criminal case, if necessary, may arrest and commit the accused person, and cause him to be removed under warrant and in custody, to be dealt with by such other Court.

IV.—*Registration.*

12. Every resident British subject (except a native Indian subject), being of the age of 21 years or upwards, or being married, or a widower or widow, though under that age, shall, in January in every year, register himself in a register to be kept at the Consulate of the consular district within which he resides, subject to this qualification, that the registration of a man shall be deemed to comprise the registration of his wife (unless she is living apart from him), and that the registration of the head of a family, whether male or female, shall be deemed to comprise the registration of all females being relatives of the head of the family (in whatever degree of relationship) living under the same roof with the head of the family at the time of his registration.

Every non-resident British subject (except a native Indian subject) arriving in Persia at a place where a consular office is maintained, unless borne on the muster-roll of a British vessel, shall, within one month after his arrival, register himself in a register to be kept at the consular office there, but so that no person shall be required to register himself more than once in any year, reckoned from the 1st January.

Any person failing so to register himself, and not excusing his failure to the satisfaction of the consular officer, shall be deemed guilty of an offence under this Order, and shall be liable to a fine of not more than 5*l.*, and any Court or authority acting under this Order may, if it thinks fit, decline to recognise him as a British subject.

13. A native Indian subject resident in, or resorting to, Persia, may, if he thinks fit, register himself at the times and in manner aforesaid.

A native Indian subject not so registering himself shall not be entitled to sue in the Court, or to receive the support or protection of a consular officer with respect to any suit or proceeding to which he is a party in a Court or before a judicial officer of Persia, or in a Court or before a judicial officer in Persia of a State in amity with Her Majesty.

14. The Consular officer shall give to every person registered under this Order a certificate of registration under his hand and consular seal; and the name of a wife (unless she is living apart from her husband) shall be indorsed on her husband's certificate; and the names and descriptions of females whose registration is comprised in that of the head of the family shall be indorsed on the certificate of the head of the family.

15. Every person shall on every registration of himself be liable to pay a fee of 2*s.* 6*d.*

V.—*Assessors*

16. An assessor shall be a competent and impartial British subject of good repute, resident in the district of the particular Court, and nominated and summoned by the Court for the purpose of acting as assessor.

17. There shall ordinarily be not fewer than two and not more than four assessors. Where, however, by reason of local circumstances, the Court is able to obtain the presence of one assessor only, the Court may, if it thinks fit, sit with one assessor only; and where for like reasons, the Court is not able to obtain the presence of any assessor, the Court may, if it thinks fit, sit without an assessor—the Court in every case recording in the minutes its reasons for sitting with one assessor only or without an assessor.

18. An assessor shall not have any voice in the decision of the Court in any case, civil or criminal; but an assessor dissenting, in a civil case, from any decision of the Court, or, in a criminal case, from any decision of the Court or the conviction or the amount of punishment awarded, may record in the minutes his dissent, and the grounds thereof, and shall be entitled to receive, without payment, a certified copy of the minutes.

VI.—*General Jurisdiction and Procedure.*

19. The Consul-General shall have in all matters, civil and criminal, an original jurisdiction concurrent with the jurisdiction of the several Provincial Courts, to be exercised subject and according to the provisions of this Order.

20. The Consul-General may, if and when he thinks fit, visit, in a magisterial or judicial capacity, any place in Persia, and then inquire of, or hear or determine, any case, civil or criminal.

21. A Provincial Court may, of its own motion, or on the application of any person concerned, report to the Consul-General the pendency of any case, civil or criminal, which appears to the Provincial Court fit to be heard and determined by the Consul-General.

The Consul-General shall thereupon direct in what mode and where the case shall be heard and determined, and the same shall be so heard and determined accordingly.

22. Every Court held under this Order shall, in the exercise of every part of its jurisdiction, be a Court of Record.

23. Each Court shall be auxiliary to every other Court in all particulars relative to the administration of justice, civil or criminal.

24. Each Provincial Court shall every twelve months furnish to the Consul-General a report of every case, civil and criminal, brought before it, in such form as the Consul-General from time to time directs.

25. A suit or proceeding shall not be commenced against any person for anything done or omitted under this Order, unless notice in writing is given by the intending plaintiff or prosecutor to the intended defendant one month at least before the commencement of the suit or proceeding, nor unless it is commenced within three months next after the act or omission complained of, or in case of a continuation of damage within three months next after the ceasing of the damage.

The plaintiff in such a suit shall not succeed if tender of sufficient amends is made by the defendant before the commencement thereof, and if no tender is made, the defendant may, by leave of the Court, at any time pay into Court such sum of money as he thinks fit and thereupon such proceeding and order shall be had and made in and by the Court as the Court thinks just.

26. The forms set forth in the First Schedule to this Order, or forms to the like effect, may be used, with such variations as circumstances require.

27. [*Repealed by "The Persia (Judicial Fees) Order in Council, 1898," printed at p. 688 below.*]

28. In civil cases the Court and its officers shall, as far as there is proper opportunity, promote reconciliation among persons over whom the Court has jurisdiction, and encourage and facilitate the settlement in an amicable way and without recourse to litigation of matters in difference among them.

In criminal cases, the Court may promote reconciliation, and encourage and facilitate the settlement in an amicable way of proceedings for assault or for any other offence not amounting to felony, and being of a private or personal character, on terms of payment of compensation or other terms approved by the Court, and may thereupon order the proceedings to be stayed.

29. Every summons, order, and other document issuing from the Court shall be in English, or in English and Persian.

Every petition, answer, and other document filed in the Court in a civil or criminal proceeding by a party thereto, shall be in English, or French, or Persian.

Every affidavit used in the Court shall be in English, or in the ordinary language of the person swearing it.

An affidavit in any language other than English, or French, or Persian, shall be accompanied by a sworn translation into English, or French, or Persian, procured by and at the expense of the person using the affidavit.

30. Summonses, orders, and other documents issuing from the Court shall be sealed with the seal of the Court.

31. In every case, civil or criminal, minutes of the proceedings shall be drawn up, and shall be signed by the consular officer before whom the proceedings are taken, and shall, where the suit is heard with assessors, be open for their inspection and for their signature if concurred in by them.

These minutes, with the depositions of witnesses, and the notes of evidence taken at the hearing or trial by the consular officer, shall be preserved in the office of the Court.

32. Every person doing an act or taking a proceeding in the Court as plaintiff in a civil case, or as making a criminal charge against another person, or otherwise, shall do so in his own name and not otherwise, and either—

- (a) by himself ; or
- (b) by his counsel or attorney ; or
- (c) by his procurator or agent thereunto lawfully authorised in writing.

Where the act is done or proceeding taken by an attorney, procurator, or agent, the power of attorney, or instrument constituting the procurator or agent, or an authenticated copy thereof, shall be first filed in the Court.

Where the authority has reference only to the particular proceeding the original document shall be filed.

Where the authority is general, or has reference to other matters in which the attorney, procurator, or agent is empowered to act, an authenticated copy of the document may be filed.

If any person does not act or takes a proceeding in the Court in the name or on behalf of another person, not being lawfully authorised thereunto, and knowing himself not to be so authorised, he shall be deemed guilty of a contempt of Court.

Where in this Order appearance is referred to, appearance in person, or by counsel, attorney, procurator, or agent as aforesaid, is meant, unless it is otherwise expressed.

33. Service of a petition, notice, summons, order or other document of which service is required by this Order, or according to the course of the Court, shall be made by an officer of the Court, unless in any case the Court thinks fit otherwise to direct.

Service shall not be made except under an order of the Court, indorsed on or subscribed or annexed to the document to be served, which order is for the purposes of this Order deemed part of the document to be served.

Unless in any case the Court thinks it just or expedient otherwise to direct, service shall be personal, that is, the document to be served shall be delivered to the person to be served himself.

Where it appears to the Court (either after or without an attempt at personal service) that for any reason personal service cannot be conveniently effected, the Court may order that service be effected either—

- (i.) by delivery of the document to some adult inmate at the usual or last known place of abode or business within the particular jurisdiction of the person to be served ; or
- (ii.) by delivery thereof to some person being an agent of the person to be served, or to some other person within the particular jurisdiction on it being proved that there is reasonable probability that the document will, through

- that agent or other person, come to the knowledge of the person to be served ; or
- (iii.) by advertisement in some newspaper circulating within the particular jurisdiction ; or
 - (iv.) by notice put up at the Court or at some other place of public resort within the particular jurisdiction.

An order for service may be varied from time to time with respect to the mode of service directed by the order.

Service not required to be personal shall be made before 5 o'clock in the evening.

If made after that hour on any day but Saturday, it shall be considered as made on the following day.

If made after that hour on Saturday, it shall be considered as made on the following Monday.

Service shall not be made on Sunday.

Ordinarily, service shall not be made out of the particular jurisdiction except under an order for that purpose made by the Court within whose jurisdiction service is to be made, which order may be made on the request of any other Court, and shall in each case direct in what mode service is to be made.

Where, however, the urgency or other peculiar circumstances of the case appear to any Court to so require (for reasons recorded in the minutes), the Court may order that service be made out of its particular jurisdiction.

34. Where by this Order, or any order of the Court, or the course of the Court, any limited time from and after any date or event is appointed or allowed for the doing of any act, or the taking of any proceeding, and the time is not limited by hours, the following rules shall apply :—

- (i.) The limited time does not include the day of the date or of the happening of the event, but commences at the beginning of the day next following that day.
- (ii.) The act or proceeding must be done or taken at latest on the last day of the limited time.
- (iii.) Where the limited time is less than six days, Sundays shall not be reckoned as part of the time.

35. Notwithstanding anything in this Order, the Court (for reasons recorded in the minutes) may at any time, and from time to time, do any of the following things as the Court thinks just :—

- (i.) defer or adjourn the hearing or determination of any suit, matter, proceeding, or application ;
- (ii.) order or allow any amendment of any petition, answer, notice, or other document ;
- (iii.) appoint or allow a time for, or enlarge or abridge the time appointed or allowed for, or allow further time for the doing of any act or the taking of any proceeding.

36. The Court, on making any order which it is in its discretion to make, may make the order on such terms respecting time, costs, and other matters as the Court thinks fit.

37. If an officer of the Court employed to execute an order, by neglect or omission, loses the opportunity of executing it, then on complaint of the person aggrieved, and proof of the fact alleged, the Court may, if it thinks fit, order the officer to pay the damages sustained by the person complaining, or part thereof, and the order shall be enforced as an order directing payment of money.

38. If a clerk or officer of the Court, acting under pretence of the process or authority of the Court, is charged with extortion, or with not duly paying over money, or with other misconduct, the Court, if it thinks fit, may (without prejudice to any other liability or punishment to which the clerk or officer would, in the absence of the present provision be liable) inquire into the charge in a summary way, and may for that purpose summon and enforce the attendance of all necessary persons as in a suit, and may make such order for the repayment of any money extorted, or for the payment over of any money and for the payment of such damages and costs as the Court thinks just, and the Court may also, if it thinks fit, impose on the clerk or officer such fine, not exceeding 10*l.* for each offence, as the Court thinks just.

39. All costs and all charges and expenses of witnesses, prosecutions, punishments, and deportations, and other charges and expenses, and all fees, fines, forfeitures, and pecuniary penalties payable under this Order may be levied by distress and seizure and sale of ships, goods, and lands ; and any bill of sale or mortgage or transfer of property made with the view of avoiding such distress, seizure, or sale shall not be permitted to defeat the provisions of this Order.

40. All fees, fines, forfeitures, and pecuniary penalties levied under this Order shall be carried to the public account, and be applied as the Secretary of State, with the concurrence of the Commissioners of the Treasury, from time to time directs.

41. In any case, civil or criminal, and at any stage thereof, the Court, either of its own motion or on the application of any party, may summon a British subject being within the particular jurisdiction, to attend to give evidence or to produce documents or to be examined.

If the person summoned, having reasonable notice of the time and place at which he is required to attend, fails to attend accordingly, and does not excuse his failure to the satisfaction of the Court he shall (independently of any other liability) be deemed guilty of an offence against this Order, and be liable to a fine of not more than 100*l.* or to imprisonment for not more than one month in the discretion of the Court.

42. In a criminal case, where the Court is satisfied that a British subject within the particular jurisdiction may be able to give material evidence, either for the prosecution or for the defence, and that he will not voluntarily attend to give evidence, the Court may issue a summons for his attendance.

If he does not obey the summons, and does not excuse his failure

to the satisfaction of the Court, then (after proof of service of the summons) the Court may issue a warrant to compel his attendance.

Where it is proved to be probable that a person who might be so summoned will not attend to give evidence unless compelled to do so, then the Court, instead of issuing a summons, may issue a warrant in the first instance.

If any such person on his appearance, either in obedience to a summons or on being brought up under a warrant, refuses to take an oath, or having taken an oath to answer any question put to him, and does not excuse his refusal to the satisfaction of the Court, then the Court may, by warrant, commit him to prison, there to remain for not more than seven days, unless he in the meantime consents to answer duly on oath.

43. If in any case, civil or criminal, a British subject wilfully gives false evidence on oath in the Court or on a reference, he shall be deemed guilty of wilful and corrupt perjury.

44. In a civil case the Court may, if it thinks fit, order that the expenses of a witness on his appearing to give evidence, be defrayed by the parties or any of them.

45. In any case, civil or criminal, and at every stage thereof, the Court, on the application of either party or of its own motion, may order witnesses on both sides to be kept out of Court until they have respectively given their evidence; but this provision does not extend to the parties themselves, or to their respective legal advisers, although intended to be called as witnesses.

46. In every case, civil or criminal, and at every stage thereof, the Court shall take a note of the substance of all oral evidence taken before it in a narrative form, but shall put down the terms of any particular question or answer if there appears reason for doing so.

No person shall be entitled as of right at any time or for any purpose to inspection or a copy of the Court's notes of evidence.

47. In every case, civil or criminal, and at every stage thereof, each witness, after examination in chief, is subject to be cross-examined, and to be re-examined, and after re-examination may be questioned by the Court, and shall not be recalled or further questioned save through and by leave of the Court.

48. In a civil case, where evidence taken by affidavit or by commission or on deposition is offered, the party offering it may read it before or after the oral evidence on his part is concluded.

49. In every case, civil or criminal, and at every stage thereof, any objection to the reception of evidence shall be made at the time the evidence is offered, and shall be argued and decided at the time.

Where a question proposed to be put to a witness is objected to, the Court, unless the objection appears frivolous, shall, if required by either party, take a note of the question and objec-

tion, and mention on the notes whether the question was allowed to be put or not, and the answer to it, if put.

50. In a civil case, where a person whose evidence would have been admissible is dead or insane, or, for any reason appearing sufficient to the Court, is not present to give evidence, the Court may, if it thinks fit, receive proof of any evidence given by him in any former judicial proceeding; provided that the subject matter of the former proceeding was substantially the same as that of the pending proceeding, and that the parties to the pending proceeding were parties to the former proceeding or bound by it, and had an opportunity in it of cross-examining the person of whose evidence proof is so to be given.

51. In a criminal case if it is proved that a person whose deposition has been taken is dead or is so ill as not to be able to travel, and that his deposition was taken in the presence of the accused, and that the accused had full opportunity of cross-examining the witness, the deposition may be given in evidence.

52. In a criminal case any statement made by the accused at the preliminary examination in answer to the questions put to him by the Court, as prescribed by this Order, may be given in evidence against him on the trial.

53. In a criminal case nothing in this Order shall prevent the prosecutor from giving in evidence at the trial any admission or confession or other statement of the accused made at any time which would, by law, independently of this Order, be admissible as evidence against him.

54. In a civil case, where the circumstances of the case appear to the Court so to require for reasons recorded in the minutes, the Court may, when a suit or application is pending, take the evidence of any witness at any time as preparatory to the hearing, and the evidence so taken may be used at the hearing, subject to just exceptions.

Any Court or consular officer shall, on the request in writing of any Court before which a suit or application is pending, so take evidence for purposes of the suit or application.

The evidence shall be taken in like manner as nearly as may be as evidence at the hearing of a suit is to be taken, and then the note of the evidence shall be read over to the witness and tendered to him for signature, and if he refuses to sign it the Court shall add a note of his refusal, and the evidence may be used as if he had signed it.

Evidence may be taken in like manner on the application of any person, although no suit or application is pending, where it is proved that the person applying has good reason to apprehend that a proceeding will be taken against him in the Court, and that some person within the particular jurisdiction at the time of application can give material evidence respecting the subject of the apprehended proceeding, but that he is about to leave the particular jurisdiction, or that from some other cause the person applying will lose the benefit of his evidence if it is not at once taken.

55. Before an affidavit is used in the Court for any purpose, the original shall be filed in the Court; and the original or an office copy shall alone be recognised for any purpose in the Court.

An affidavit sworn before a consular officer of Her Majesty authorised to take affidavits in any country or before a Judge or other person in the United Kingdom or in a British colony or possession authorised to take affidavits, or before a mayor or other magistrate in a foreign country authorised to administer an oath, or in the case of a foreigner being in Persia before his own proper consular or native authority may be used in the Court subject to the rules of evidence.

An affidavit shall not be admitted if it is proved that it has been sworn before a person on whose behalf it is offered, or before his attorney or before a partner or clerk of his attorney.

An affidavit may be used, notwithstanding any defect in form, if it is proved that it has been sworn before a person duly authorised, and that the form thereof and that of the attestation thereto are in accordance with the law and custom of the place where it has been sworn, or with any law applying to the deponent.

A defective or erroneous affidavit may be amended or re-sworn by leave of the Court in which it is to be used.

The Court may, if it thinks fit for reasons recorded in the minutes, admit an affidavit in evidence, although it is shown that the party against whom the affidavit is offered in evidence had no opportunity of cross-examining the person making the affidavit.

56. Every affidavit used in the Court shall contain only a statement of facts and circumstances in which the witness deposes, either from his own personal knowledge, or from information which he believes to be true.

It shall not contain extraneous matter, by way of objection, or prayer or legal argument or conclusion.

Where a witness deposes to his belief in any matter of fact, and his belief is derived from any source other than his own personal knowledge, he shall set forth explicitly the facts and circumstances forming the ground of his belief.

Where his belief is derived from information received from another person, the name of his informant shall be stated and reasonable particulars shall be given respecting the informant, and the time, place, and circumstances of the information.

57. The following regulations shall be observed by consular officers before whom affidavits are taken :—

Every affidavit taken in the matter of a suit or proceeding shall be headed in the Court and in the suit or proceeding.

Every affidavit shall state the full name, trade or profession, address, and nationality of the witness.

It may be in the first or the third person, and may be divided into convenient paragraphs numbered consecutively.

Any erasure, interlineation, or alteration made before the affidavit is sworn shall be attested by the consular officer, who shall affix

his signature or initials in the margin immediately opposite to the interlineation, alteration, or erasure.

Where an affidavit proposed to be sworn is illegible or difficult to read, or is, in the judgment of the consular officer, so written as to facilitate fraudulent alteration, he may refuse to swear the witness, and may require the affidavit to be re-written.

The affidavit, when sworn, shall be signed by the witness (or, if he cannot write, marked by him with his mark) in the presence of the consular officer.

The jurat shall be written without interlineation, alteration, or erasure immediately at the foot of the affidavit and towards the left side of the paper, and shall be signed by the consular officer and be sealed by him with his consular seal.

It shall state the date of the swearing and the place where it is sworn.

It shall state that the affidavit was sworn before the consular officer.

Where the witness is blind or illiterate it shall state that fact, and that the affidavit was read over to him in the presence of the consular officer, and that the witness appeared to understand it.

Where the witness makes a mark instead of signing, the jurat shall state that fact, and that the mark was made in the presence of the consular officer.

Where two or more persons join in making an affidavit their several names shall be written in the jurat, and it shall appear by the jurat that each of them has been sworn to the truth of the several matters stated by him in the affidavit.

The consular officer shall not allow an affidavit, when sworn, to be altered in any manner without being re-sworn.

If the jurat has been added and signed, he shall add a new jurat on the affidavit being re-sworn, and in the new jurat he shall mention the alteration.

He may refuse to allow the affidavit to be re-sworn, and may require a fresh affidavit.

58. In a civil case any party may call on any other party by notice filed and served to admit any document, subject to just exceptions.

In case of refusal or neglect to admit, the costs of proof of the document shall be paid by the party neglecting or refusing, unless the Court is of opinion that the refusal to admit was reasonable.

No costs of proof of any document shall be allowed unless notice to admit has been given, except in cases where the omission to give notice has, in the opinion of the Court, produced a saving of expense.

Every document offered as evidence, and not objected to, shall be put in and read, or taken as read by consent.

Every document put in evidence shall be marked by the Court at the time, and shall be retained by the Court during the hearing, and returned to the party who put it in, or from whose custody it came, immediately after the judgment, unless it is impounded by order of the Court.

59. The Consul-General may, if he thinks fit, order that a Com-

mission do issue for examination of witnesses at any place out of Persia, on oath, by interrogatories or otherwise, and may from time to time, by order, give such directions touching the time, place, and manner of the examination, or anything connected therewith, as to the Court appear reasonable and just.

60. Where a foreigner desires to institute or take in the Court a suit or proceeding of a civil nature against a British subject, or a British subject desires to institute or take in the Court a suit or proceeding of a civil nature against a foreigner, the Court shall entertain the same, and shall hear and determine it, either without assessors, or, if all parties desire, or the Court thinks fit to direct, a trial with assessors, then at a place where such a trial might be had if all parties were subjects, with assessors, but in all other respects according to the ordinary course of the Court.

Provided that the foreigner, if so required by the Court, first obtains and files in the Court the consent in writing of the competent authority on behalf of Persia or of his own nation (as the case may be) to his submitting, and does submit, to the jurisdiction of the Court, and, if required by the Court, gives security to the satisfaction of the Court, by deposit or otherwise to pay fees, damages, costs, and expenses, and abide by and perform such decision as shall be given by the Court originally or on appeal (as the case may require).

61. A cross suit shall not be instituted in the Court against a plaintiff, being a foreigner who has submitted to the jurisdiction, by a defendant without leave of the Court first obtained.

The Court before giving leave shall require proof from the defendant that his claim arises out of the subject matter in dispute, and that there is reasonable ground for it, and that it is not made for vexation or delay.

Nothing in this provision shall prevent the defendant instituting or taking in the Court any suit or proceeding against the foreigner after the termination of the suit or proceeding in which the foreigner is plaintiff.

62. Where a foreigner obtains in the Court an order against a defendant being a British subject, and in another suit that defendant is plaintiff, and the foreigner is defendant, the Court may, if it thinks fit, on the application of the subject, stay the enforcement of the order pending that other suit, and may set off any amount ordered to be paid by one party in one suit against any amount ordered to be paid by the other party in the other suit.

Where a plaintiff, being a foreigner, obtains an order in the Court against two or more defendants being British subjects jointly, and in another suit one of them is plaintiff, and the foreigner is defendant, the Court may, if it thinks fit, on the application of the subject, stay the enforcement of the order pending that other suit, and may set off any amount ordered to be paid by one party in one suit against any amount ordered to be paid by the other party in the other suit, without prejudice to the right of the subject

to require contributions from his co-defendants under the joint liability.

63. Where a foreigner is co-plaintiff in a suit with a British subject who is within the particular jurisdiction, it shall not be necessary for the foreigner to make deposit or give security for costs, unless the Court so directs, but the co-plaintiff British subject shall be responsible for all fees and costs.

64.—(1.) Where it is shown to a Court that the attendance of a British subject to give evidence, or for any other purpose connected with the administration of justice, is required in a native or foreign Court, or before a native or foreign judicial officer, or in a Court, or before a judicial officer of any state in amity with Her Majesty, the Court may, if it thinks fit, in a case and in circumstances in which it would require his attendance before itself, order that he do attend and give evidence, and produce documents as so required. The order may be made subject to conditions as to payment or tender of expenses or otherwise.

(2.) A Court, however, cannot so order attendance at any place beyond its particular jurisdiction.

(3.) If the person ordered to attend, having reasonable notice of the time and place at which he is required to attend, fails to attend accordingly, and does not excuse his failure to the satisfaction of the Court, or if he refuses to give evidence, or wilfully gives false evidence, or fails to produce documents which he is properly required to produce, he is, independently of any other liability, guilty of an offence against this Order, and for every such offence, or conviction thereof, by summary trial, is liable to a fine not exceeding one hundred pounds, or to imprisonment for not exceeding one month, in the discretion of the Court.

65.—(1.) The provisions of the Evidence Act, 1851, 14 & 15 Vict. c. 99. ss. 7 and 11, relating to the proof of judicial and other documents, shall extend and be applied for all purposes as if Persia were a British colony.

(2.) The following Acts, namely :—

The Foreign Tribunals Evidence Act, 1856,*

The Evidence by Commission Act, 1859,†

The Evidence by Commission Act, 1885,‡

or so much thereof as is for the time being in force, and any enactment for the time being in force amending or substituted for the same, are hereby extended to all places and Courts to which this Order applies, with the adaptations following, namely :—

In the said Acts, the Court is hereby substituted for a Supreme Court or a Judge of a Court in a colony.

(3.) The following Acts, namely :—

The British Law Ascertainment Act, 1859,§

The Foreign Law Ascertainment Act, 1861,||

* 19 & 20 Vict. c. 113.

† 48 & 49 Vict. c. 74.

‡ 24 & 25 Vict. c. 11.

† 22 Vict. c. 20.

§ 22 & 23 Vict. c. 63.

or so much thereof as is for the time being in force, and any enactment for the time being in force amending or substituted for the same, are hereby extended to all places and Courts to which this Order applies, with the adaptation following, namely :—

In the said Acts the Court is hereby substituted for a superior Court in a colony.

66. No proceeding under this Order shall be invalidated by any informality, mistake, or omission, so long as, in the opinion of any Court before which any question arises, the essential requisites of law and justice have been complied with.

VII.—*Civil Jurisdiction and Procedure.*

67. Each Court shall be a Court of Law and of Equity ; and (subject to the provisions of this Order) shall have and may exercise all jurisdiction, power, and authority, legal, equitable, or other, which any Consul of Her Majesty by custom has or may exercise in Persia.

Bankruptcy.

68. Each Court shall be a Court of Bankruptcy, and as such shall, as far as circumstances admit, have, for and within its own district, with respect to resident British subjects, and to their debtors and creditors, being either resident British subjects or natives or foreigners submitting to the jurisdiction of the Court, all such jurisdiction as for the time being belongs to any judicial authority having for the time being jurisdiction in bankruptcy in England.

Lunacy.

69. The Consul-General shall, as far as circumstances admit, have for and within Persia, with respect to resident British subjects, all such jurisdiction relative to the custody and management of the persons and estates of persons of unsound mind as for the time being belongs to the Lord Chancellor or other person or persons in England entrusted by virtue of Her Majesty's Sign Manual with the care and commitment of the custody of the persons and estates of persons found by inquisition in England idiot, lunatic, or of unsound mind.

Matrimonial Causes.

70. The Consul-General shall, as far as circumstances admit, have within Persia, with respect to resident British subjects, all such jurisdiction, except the jurisdiction relative to dissolution or nullity or jactitation of marriage, as for the time being belongs to any Court exercising jurisdiction in divorce and matrimonial causes in England.

Probate.

71. The Consul-General shall, as far as circumstances admit, have, for and within Persia, with respect to the property of deceased

resident British subjects, all such jurisdiction as for the time being belongs to any Court exercising probate jurisdiction in England.

A Provincial Court shall, however, also have power to grant probate or letters of administration where there is no contention respecting the right to the grant, and it is proved that the deceased was resident at his death within the particular jurisdiction. That probate or administration shall have effect over all the property of the deceased within Persia, and shall effectually discharge persons dealing with an executor or administrator thereunder, notwithstanding that any defect afterwards appears in the grant. The grant shall not be impeachable by reason only that the deceased was not at the time of his death resident within the particular jurisdiction.

72. A British subject may, in his lifetime deposit for safe custody, in the Court, his own will, sealed up under his own seal and the seal of the Court.

Arbitration.

73. The Court may, with the consent of the parties, refer to arbitration the final determination of any suit or proceeding pending, or of all matters in difference between the parties, on such terms and with such directions as to appointment of an arbitrator and other things as the Court thinks fit, with or without security from the parties, or any of them, that they will abide by the result of the reference.

In any such case the award shall be final and conclusive.

On the application of any party a decree of the Court may be entered in conformity with the award, and the decree shall not be open to appeal or re-hearing except on the ground that it is not in conformity with the award.

74. Every agreement for reference to arbitration or submission to arbitration by consent between or by British subjects, or to which a British subject is a party, may, on the application of any party, be made a rule of the Court having jurisdiction in the matter of the reference or submission; and that Court shall thereupon have authority to enforce the agreement or submission and the award made thereunder, and to control and regulate the proceedings before and after the award, in such manner and on such terms as the Court thinks just.

The following provisions respecting arbitration apply exclusively to cases where the agreement for reference to arbitration or submission to arbitration by consent is so made a rule of Court.

75. The arbitrators shall make their award within one month after they have entered on the reference or have been called on to act by a notice in writing from any party, unless the document authorising or making the reference contains a different limit of time.

76. The Court may, if it thinks fit, on reasonable notice to all parties, from time to time enlarge the time for making the award for such time as the Court thinks just, the reasons for enlargement being recorded in the minutes.

77. An umpire may enter on the reference in lieu of the arbitrators, if the arbitrators have allowed their time, or their extended time, to expire without making an award, or have filed in the Court a notice in writing that they cannot agree.

78. The authority of arbitrators or an umpire is not revocable except by the Court.

79. Where it appears to the arbitrators or umpire that any difficult question of law is involved in or raised by the facts as finally ascertained by them or him, they or he may, if it seems to them or him fit, state the award (as to the whole or any part thereof) in the form of a case for the opinion of the Court having jurisdiction in the matter, or of the Consul-General.

The Court shall consider and deliver judgment on the case, and shall be at liberty to draw inferences of fact from the facts stated, and to amend any irregularity, mistake, or imperfection in the case.

80. The arbitrators or umpire shall have power to award how the costs of the reference shall be borne, in the whole or in part.

But an award respecting costs shall not preclude a party against whom costs are awarded from applying to the Court to tax the costs; and on that application the costs, including the remuneration (if any) of the arbitrators and umpire, or any of them, shall be taxed at a reasonable rate by the Court; and the Court shall make such order respecting the costs of taxation as the Court thinks just.

81. The award shall be in writing signed by the arbitrators or umpire making it.

If shall contain a conclusive finding, and may not find on the contingency of any matter of fact being afterwards substantiated or deposed to. It shall comprehend a finding on each of the several matters referred.

82. The arbitrators or umpire making an award shall, within the time limited, deposit the award in Court, enclosed in a sealed cover, and indorsed with the names of the parties to the reference, and with a note of the amount claimed by the arbitrators and umpire for remuneration.

Notice of the award having been deposited shall be served by the Court on the parties, who shall be at liberty to read the award, and to have copies of it.

83. Any person interested may, within seven days after the notice of the award, apply to the Court to prevent the execution of the award, or of any specified part of it.

In default of any such application, the Court shall proceed, on reasonable notice to all parties, to make such order for carrying into effect the award, or any part thereof, and as to costs, and other things as the Court thinks just.

84. The Court may at any time, and from time to time, remit the matters referred, or any of them, to the reconsideration and

re-determination of the arbitrators or umpire, on such terms as to costs and other things, as the Court thinks just.

85. The Court shall not refuse to execute an award merely on the ground of irregularity in the submission, or during the reference, where the irregularity has not been substantially prejudicial to the party applying to prevent the execution of the award.

Decision on Fact or Law, without Suit.

(a.) Question of Fact.

86. Where persons between whom a suit might be instituted agree that there is a question of fact to be determined between them, they may, by consent and by order of the Court, which order of the Court may make on being satisfied that the parties have a real interest in the determination of the question, and that it is fit to be tried, state the question for trial in an issue, and the issue may be tried as if the question were to be determined at the hearing of a suit.

The issue and proceedings and decree shall be recorded, and the decree shall have the same effect as a decree in a suit.

The parties may, if they think fit, enter into an agreement in writing, embodied in an order of the Court, that, on the finding of the Court, a sum of money, fixed in the agreement, or to be ascertained by the Court on a question inserted in the issue for that purpose, shall be paid by one of the parties to the other, with or without any costs. On the finding, a decree may be entered for the sum so agreed or ascertained, with or without costs, as the case may be.

Where there is no agreement respecting costs, the costs of the whole proceedings shall be in the discretion of the Court.

(b.) Question of Law.

87. Where persons between whom a suit might be instituted agree that there is a question of law to be determined between them, they may by consent and by order of the Court, which order the Court may make on being satisfied that the parties have a real interest in the determination of the question, and that it is fit to be determined, state any question of law in a case for the opinion of the Consul-General, without petition presented or other pleading.

Where the case is stated under order of a Court other than the Consul-General, the Court shall send the case to the Consul-General.

The Consul-General may direct the case to be re-stated or to be amended, or may refuse to determine it if the facts are not sufficiently stated, or if the question is not properly raised, or if the parties cannot agree on an amended case.

The Consul-General may draw inferences of fact from facts stated in the case.

The case and proceedings and decree shall be recorded, and the decree shall have the same effect as a decree in a suit.

The parties may, if they think fit, enter into an agreement in writing, embodied in an order of the Court, that on the judgment of the Consul-General being given, a sum of money, fixed in the agreement, or to be ascertained by the Consul-General, or in such manner as he may direct, shall be paid by one of the parties to the other with or without any costs. On the judgment of the Consul-General, a decree of the Court under whose order the case was stated may be entered for the sum so agreed or ascertained, with or without costs, as the case may be.

Where there is no agreement respecting costs, the costs of the whole proceedings shall be in the discretion of the Consul-General.

Bills of Exchange and Promissory Notes.

88. A suit on a bill of exchange or promissory note, instituted within six months after it becomes due and payable, may be commenced by summons, and may be heard and determined in a summary way.

An appeal shall not lie from any order in the suit.

89. The Court shall, on application within seven days from the service of the summons, give the defendant leave to defend the suit on his paying into Court the sum indorsed on the summons, or on proof of a good legal or equitable defence, or such facts as would make it incumbent on the holder to prove consideration, or such other facts as appear to the Court sufficient to support the application, and on such terms as to security and other things as the Court thinks fit; and in that case the Court may direct proceedings to be taken and carried on by petition.

If the defendant does not so obtain leave to defend, the plaintiff, on proof of service of the summons, shall be entitled as of course at any time after the expiration of those seven days to an immediate absolute order for any sum not exceeding that indorsed on the summons, with interest at the rate specified (if any) to the date of the order, and a sum for costs to be fixed by the Court in the order.

90. The holder of a bill or note may, if he thinks fit, obtain one summons against all or any of the parties to the bill or note; and subsequent proceedings shall be carried on, as far as the Court thinks fit, as if separate summonses had been issued.

But the summons or its indorsement shall set forth the claims against the several parties, according to their respective alleged liabilities, with sufficient precision and certainty to enable each to set up any defence on which he individually may desire to rely.

91. The Court may, if it thinks fit, order that the bill or note be forthwith deposited in the Court, and that all proceedings be stayed until the plaintiff gives security for costs.

92. The holder of a dishonoured bill or note shall have the like remedies for the recovery of the expenses incurred in the noting of the same for non-acceptance or non-payment, or incurred other-

wise by reason of the dishonour, as for recovery of the amount of the bill or note.

93. After order made, the Court may, if it thinks fit, for reasons recorded in the minutes, set aside the order or execution, and give leave to defend.

Claims under 20l.

94. Where the claim which any person desires to enforce by proceedings in the Court either—

- (i.) relates to money, goods, or other property, or any civil right or other matter at issue, of a less amount or value than 20l. ; or
- (ii.) is instituted for the recovery of damages of a less amount than 20l. ;

proceeding shall be commenced by summons and the suit shall (subject to the provisions of this Order) be heard and determined in a summary way.

95. The summons shall issue without application in writing.

It shall be addressed to the person, as respondent, against whom the claim is made.

It shall state briefly and clearly the nature and particulars of the claim and the amount sought to be recovered.

It shall be served on the respondent within the time and in the manner directed by the Court.

A respondent shall not be bound to attend personally to answer the summons unless required expressly by the summons so to do, but he shall attend personally if summoned as a witness.

The proceedings on the summons shall (except as far as the Court, in any case for the avoiding of delay and the furtherance of substantial justice, thinks fit otherwise to direct) be governed by the provisions of this Order regulating claims for 20l. or upwards.

96. Where, either on the application for a summons, or before or at the hearing thereof, it appears to the Court (for reasons recorded in the minutes) that the nature and circumstances of the case make it unjust or inexpedient to hear and determine the claim in a summary way, the Court may direct that proceedings be taken and carried on by petition.

Claims for 20l. or upwards.

A.—Ordinary Provisions.

97. Subject to the foregoing provisions of this Order (where the claim which any person desires to enforce by proceedings in the Court is not such as hereinbefore directed to be commenced by summons), proceedings shall be commenced by the filing of a petition.

98. The petition shall contain a narrative of the material facts on which the plaintiff relies.

The narrative shall be divided into paragraphs numbered con-

secutively, each paragraph containing, as nearly as may be, a separate statement or allegation.

The petition shall pray for the specific relief to which the plaintiff conceives himself entitled, and also for general relief.

The petition shall be as brief as is consistent with a clear statement of the facts on which the prayer is sought to be supported, and with information to the defendant of the nature of the claim set up.

Documents shall not be unnecessarily set out in full in the petition, but so much only of them as is pertinent and material shall be set out.

Dates and sums shall be expressed in the petition in figures, and not in words.

99. Where there is only one defendant, one copy of the petition, and of any schedule thereto, for service, shall be left with the Court together with the original.

Where there are two or more defendants, as many copies as there are parties to be served shall be left, together with the original.

100. The plaintiff shall obtain an order for service of the petition on the defendant.

101. The order for service of the petition shall specify a reasonable time after service, ordinarily not more than eight days, within which the defendant shall put in his answer.

102. The Court may, if it thinks fit, on the application of the defendant, allow him further time for putting in his answer.

103. A defendant failing to answer within the time, or further time, allowed, shall not be at liberty to put in an answer without leave of the Court.

104. The answer shall show the nature of the defendant's defence to the claim set up by the petition.

It shall not introduce matter irrelevant to the suit, and the provisions of this Order relating to the setting out of documents and the contents of a petition generally shall be observed in an answer, as far as they are applicable.

It shall deny all such material allegations in the petition as the defendant intends to deny at the hearing.

Where the answer denies an allegation of fact, it shall deny it directly and fully (as, for example, if a petition alleges that the defendant has received a sum of money, and the defendant denies this, his answer shall deny that he has received that sum or any part thereof, or else set forth what part he has received. And so, where a matter of fact is alleged in the petition, with certain circumstances, the answer shall not deny it literally as it is alleged, but shall answer the point of substance positively and certainly).

The answer shall specifically admit such material allegations in the petition as the defendant knows to be true or desires to be taken as admitted.

The answer shall allege any fact not stated in the petition whereon the defendant intends to rely in his defence (as establishing, for

instance, fraud on the part of the plaintiff, or showing that the plaintiff's right to relief has not yet accrued, or is released, or barred, or otherwise gone).

105. The Court may, if it thinks fit, order the defendant to put in an answer on oath.

106. The Court may, if it thinks fit, on the application of the plaintiff, examine the defendant, on oath or otherwise, on written interrogatories, allowed by the Court, and take down the answers of the defendant in writing.

Those answers shall be treated as forming part of the answer to the petition.

107. A defendant not putting in any answer shall not, on that ground, be taken as admitting the allegations of the petition or the plaintiff's right to the relief sought.

108. No replication or other pleading after answer shall be allowed.

109. The plaintiff may, on considering the answer, amend his petition.

Notice of the amendment shall be served on the defendant.

110. A suit shall not be set down for hearing without an order of the Court for that purpose, which the plaintiff may obtain at any time after the expiration of the time allowed to the defendant for answering.

111. The sittings of the Court for the hearing of suits shall, where the amount of business so requires, be held on stated days.

They shall ordinarily be public, but the Court may, for reasons recorded in the minutes, hear any particular suit or matter in the presence only of the parties and their legal advisers, and the officers of the Court.

112. A Provincial Court shall (subject to the provisions of this Order) hear with an assessor or with assessors every suit, which either—

(i.) relates to money, goods, or other property, or any civil right, or other matter, at issue, of the amount or value of 300*l.* or upwards ; or

(ii.) is instituted for recovery of damages, of the amount of 300*l.* or upwards.

In all other cases, subject as aforesaid, a Court may, if it thinks fit, hear the suit either with or without an assessor or assessors.

113. The order of proceeding at the hearing shall, subject to any directions given by the Court, be as follows :—

The party on whom the burden of proof is thrown by the nature of the material questions between the parties has the right to begin ; he shall address the Court and open his case.

He shall then call his evidence and examine his witnesses in chief.

When he has concluded his evidence he shall ask the other party if he intends to call evidence (in which term is included evidence taken by affidavit or deposition, or under commission, and documentary evidence not already read or taken as read); and, if answered in the negative, the party beginning shall be entitled to sum up the evidence already given, and comment thereon; but if answered in the affirmative he shall wait for his general reply.

When the party beginning has concluded his case, the second party shall be at liberty to address the Court and to call evidence, and to sum up and comment thereon.

If no evidence is called or read by the second party, the party beginning (saving the right of the Crown) shall have no right to reply unless he has been prevented from summing up his case by the statement of the second party of his intention to call evidence.

The case on both sides shall then be considered closed.

If the second party calls or reads evidence, the party beginning shall be at liberty to reply generally on the whole case, or he may call fresh evidence in reply to the evidence given on the other side, on points material to the determination of the issues, or any of them, but not on collateral matters.

Where evidence in reply is tendered and allowed to be given, the second party shall be at liberty to address the Court, and the party beginning shall be entitled to the general reply.

114. The answer of a defendant shall not debar him at the hearing from disproving any allegation of the petition not admitted by his answer, or from giving evidence in support of a defence not expressly set up by the answer, except where in the opinion of the Court the defence is such as ought to have been expressly set up by the answer, or is inconsistent therewith.

115. The decision or judgment given at the hearing shall be delivered in open Court.

Where the Court reserves judgment at the hearing, parties to the suit shall be served with notice to attend and hear judgment, unless the Court at the hearing states the day on which judgment will be delivered, in which case there shall be no further notice.

All parties shall be deemed to have notice of the decision or judgment, if pronounced at the hearing.

All parties served with notice to attend and hear judgment shall be deemed to have notice of the judgment when pronounced.

116. In every suit, the costs of the whole suit and of each particular proceeding therein, and the costs of every proceeding in the Court, are in the discretion of the Court as regards the person by whom they are to be paid, and shall be ascertained, fixed, or taxed in such manner as may be prescribed by any rules of procedure, or in any particular case, directed by the Court.

But the Court shall not order the successful party in a suit to pay to the unsuccessful party the costs of the whole suit: although the Court may order the successful party, notwithstanding his success in the suit, to pay the costs of any particular proceeding therein.

The Court may order any costs to be paid out of any fund or property to which a suit or proceeding relates.

Where the Court orders costs to be paid by any party, the Court may, if it thinks fit, order all proceedings by or on behalf of that party in the same suit or proceeding, or connected therewith, to be stayed until the costs are paid accordingly.

B.—Exceptional Provisions.

117. On proof of extreme urgency or other peculiar circumstances, the Court may, if it thinks fit, without petition filed, and without notice, make an order of injunction, or an order to sequester money or goods, or to stop a passport, or the clearances of a ship, or to hold to bail.

Before making the order, the Court shall require the person applying for it to enter into a recognisance, with or without a surety or sureties as the Court thinks fit, as security for his being answerable in damages to the person against whom the order is sought.

The order shall not remain in force more than twenty-four hours, and shall, at the end of that time, wholly cease to be in force, unless within that time a suit is regularly instituted, by petition, by the person obtaining the order.

The order shall be dealt with in the suit as the Court thinks just.

An order to hold to bail shall state the amount (including costs) for which bail is required.

It shall be executed forthwith.

The person arrested under it shall be entitled to be discharged from custody under it on bringing into Court the amount stated in the order, to abide the event of such suit as may be instituted, or on entering into a recognisance, with or without a surety or sureties as the Court thinks fit, as a security that he will abide by the orders of the Court in any suit instituted.

He shall be liable to be detained in custody under the order for not more than seven days, if not sooner discharged; but the Court may from time to time, if it thinks fit, renew the order.

No person, however, shall be kept in custody under any such order and renewed order for a longer time, in the whole, than thirty days.

118. Where a person filing a petition, either alone or jointly with any other person, is out of the particular jurisdiction, or is only temporarily therein, he shall file in the Court, at or before the filing of the petition, a written statement of a fit place within the particular jurisdiction where notices and other papers issuing from the Court, may be served on him.

He shall also give security for costs by deposit of the sum of 50*l.*, or by bond in the penal sum of 100*l.*

The Court may at any time, either of its own motion or on the application of any defendant, order the plaintiff to give further or better security to the amount aforesaid for costs, and may direct proceedings to be stayed in the meanwhile.

119. Persons entitled to sue and suing on behalf of others as guardians, executors, or administrators, or on behalf of themselves and others (as creditors in a suit for administration), shall state the character in which they sue.

120. Where a person has jointly with other persons a ground for instituting a suit, all those other persons shall, unless the Court otherwise allows, be made parties to the suit, either as plaintiffs or defendants.

But where a person has a joint and several demand against more persons than one, either as principals or as sureties, it is not necessary for him to bring before the Court as parties to a suit concerning that demand all the persons liable thereto, and he may proceed against any one or more of the persons severally liable.

If a person not joined as plaintiff or as defendant ought to be so joined, or a person joined as plaintiff or as defendant ought not to be so joined, the Court may order the petition to be amended. But no person shall be so joined as plaintiff without proof to the Court of his consent thereto. Nor shall the name of a plaintiff be so struck out unless he was originally joined as plaintiff without his consent, or he consents to his name being struck out.

121. Where a person sues another as agent for a third person, not seeking to fix the agent with personal liability, the Court, on the fact coming to its knowledge, shall, if the third person is within the particular jurisdiction, forthwith order his name to be substituted, and stay proceedings until the order is complied with.

But if he is not within the particular jurisdiction, the Court shall refuse to proceed further in the matter, unless and until the person sued as agent undertakes, by writing filed in the Court, to defend the suit, and personally to satisfy any order for debt or damages and costs therein. In that case the person sued as agent shall further, within such time as the Court orders, and before the hearing of the suit, procure and file with the proceedings a sufficient authority in writing to him from his principal to substitute the name of the principal as defendant for that of the agent, and to defend the suit, or otherwise act in it on behalf of the principal.

The agent shall not, however, be deemed to be thereby discharged from his personal undertaking and liability to satisfy any order in the suit.

122. Proceedings by or on behalf of or against a partnership solely or jointly shall be taken in the several names of the partners as individuals, and not in the name of the firm or otherwise.

123. Where the plaintiff's claim is for money payable in respect of a contract expressed or implied, or to recover the possession or the value of goods wrongfully taken and detained, or wrongfully detained, by the defendant from the plaintiff, it shall be sufficient for the plaintiff to state his claim in the petition in a general form,

and to annex to the petition a schedule stating the particulars of his demand, in any form which shall give the defendant reasonably sufficient information of the details of the claim.

An application for further or better particulars may be made by the defendant before answer.

The plaintiff shall not, at the hearing, obtain an order for any sum exceeding that stated in the particulars, except for subsequent interest and cost of suit, notwithstanding that the sum claimed in the petition for debt or damages exceeds the sum stated in the particulars.

Particulars of demand shall not be amended except by leave of the Court; and the Court may, if it thinks fit, on an application for leave to amend, grant the same, on it appearing that the defendant will not be prejudiced by amendment.

Where the Court orders particulars to be amended, or further or better particulars to be given, the order shall state the time within which the thing ordered is to be done.

The order for service of the amended or further or better particulars shall state the time which the defendant is to have to put in his answer.

Any variance between the items contained in the particulars and the items proved at the hearing may be amended at the hearing, if the Court thinks fit.

124. Where the plaintiff seeks (with or without an order for payment of money)—

- (i.) to obtain a general or special declaration of his rights under a contract or instrument; or
- (ii.) to set aside a contract; or
- (iii.) to have a bond, bill, note, or instrument in writing delivered up to be cancelled; or
- (iv.) to restrain a defendant by injunction; or
- (v.) to have an account taken between himself and any other or others;

he may in his petition refer to and briefly describe any documents on the contents whereof he intends to rely, and may annex copies thereof to the petition.

125. A plaintiff, not giving sufficient information to enable the defendant to understand the plaintiff's claim, may be ordered, on the application of the defendant, to amend his petition.

126. A petition may be amended at any time before answer by leave of the Court, on an application of the plaintiff without notice.

Notice of amendment shall be given to the defendant.

127. If a petition contains libellous or needlessly offensive expressions, the Court may, if it thinks fit, either of its own motion, or on application of the defendant, order it to be amended.

128. Where a petition is defective on the face of it by reason of non-compliance with the provisions of this Order, the Court

may, if it thinks fit, either of its own motion, or on application by a defendant, make an order to stay proceedings until the petition is amended.

129. A plaintiff may be ordered to produce for inspection and other purposes of the suit such documents in his possession or power as are referred to in the petition, or such other documents, if any, as the defendant is entitled to inspect in the suit.

130. A petition implies an offer to do equity in the suit, and admits of any equitable defence.

The plaintiff may obtain at the hearing any such equitable relief as the facts stated and proved entitle him to, though not specifically asked.

Where a defendant in his answer raises a defence of an equitable nature, and it appears to the Court that, on this defence being established, the defendant may be entitled to some equitable relief against the plaintiff in respect of the subject matter of the suit, the Court may, if it thinks fit, on the application of the defendant, either before or at the hearing, give liberty to him to file a cross petition asking for that relief, and may make such order for the hearing of the suit and cross suit, together or otherwise, as the Court thinks just.

131. Where a defendant conceives that he has a good defence in law or equity to the petition, so that even if the allegations of fact in the petition were admitted or clearly established, yet the plaintiff would not be entitled to any order against him (the defendant), he may raise this defence by an application that the petition be dismissed without an answer being required from him.

The application shall be made within the time allowed for answering.

The summons or motion-paper on which the application is made shall state briefly the grounds of law or equity on which the defendant relies.

The application shall be heard and disposed of at as early a time as may be.

For the purposes of the application the defendant shall be taken as admitting the truth of the allegations of fact in the petition ; and no evidence respecting matter of fact, and no discussion of questions of fact, shall be allowed.

The Court, on hearing the application, shall either dismiss the petition or order the defendant to put in an answer within a short time to be named in the order, and may, if the Court thinks fit, give leave to the plaintiff to amend his petition.

Where, on the hearing of the application, any grounds of law or equity are urged in support of it other than those stated in the summons or motion paper, and the grounds stated therein are disallowed, the defendant shall be liable to pay the same costs as if the application were wholly refused, although the grounds newly urged are allowed, unless the Court thinks fit in any case to order otherwise.

132. A defendant may at any time (but where he is required to answer not until after he has put in a sufficient answer) file in the Court interrogatories for the examination of a plaintiff.

There shall be prefixed to those interrogatories a concise statement of the subjects on which a discovery is sought.

A plaintiff shall answer the interrogatories, subject to just exceptions.

133. A defence of set-off to a claim for money shall be accompanied by a statement of particulars of set-off.

A defence of partial set-off shall also be accompanied by payment into Court of the amount to which, on the defendant's showing, the plaintiff is entitled, unless the plaintiff's claim to that amount is resisted on some other ground of defence.

In default of that payment the defendant shall be liable to bear the costs of the suit, even if he succeeds in his defence to the extent of the set-off on which he relies.

Where a defendant in his answer raises a defence of set-off which, in the opinion of the Court is not admissible in that form, the Court may, if it thinks fit, either before or at the hearing, on his application, give him liberty to withdraw the defence and to file a cross petition, and may make such order for the hearing of the suit and cross suit, together or otherwise, as the Court thinks just.

A counter-claim shall not be admitted otherwise than as a defence of set-off.

A defendant, raising by his answer a counter-claim by way of defence, shall not be entitled to any order against the plaintiff for any sum of money other than his costs of the suit.

134. A defence alleging tender by the defendant shall be accompanied by payment into Court of the amount alleged to have been tendered.

135. Payment into Court by the defendant shall be accompanied by an answer or affidavit. The answer or affidavit shall state distinctly that the money paid in is paid in in satisfaction of the plaintiff's claim generally, or (as the case may be) in satisfaction of some specific part of the plaintiff's claim, where the claim is stated in the petition for distinct sums or in respect of distinct matters.

Payment into Court, whether made in satisfaction of the plaintiff's claim generally or in satisfaction of some specific part thereof, operates as an admission of liability to the extent of the amount paid in and no more, and for no other purpose.

Where the defendant pays money into Court the plaintiff shall be at liberty to accept the same in full satisfaction and discharge of the cause of suit in respect of which it is paid in; and in that case the plaintiff may forthwith apply for payment of the money out of Court to him, and on the hearing of the application the Court shall make such order respecting stay of further proceedings in the suit in whole or in part, and respecting costs and other matters, as the Court thinks just

If the plaintiff does not so apply, he shall be considered as insisting that he has a claim against the defendant to a greater amount than the sum paid in ; and in that case the Court, in determining the suit and disposing of costs, shall have regard to the fact of the payment into Court having been made and not accepted.

136. The Court, on proof that there is good reason to believe that a defendant means to abscond in order to avoid the orders of the Court, after suit or other proceedings instituted, may, if it thinks fit, make an order to hold him to bail, and may require of him such security as it thinks fit for his remaining within the particular jurisdiction and abiding by any order to be made in the suit or proceeding.

137. Where, on default made by a defendant in answering or otherwise defending the suit after service of the petition, it appears to the Court that he is an infant or a person of weak or unsound mind, so that he is unable of himself to defend the suit, the Court may, if it thinks fit, on the application of the plaintiff, or of its own motion, appoint by order some fit person to be guardian of the defendant for the purposes of the suit, by whom he may defend it.

Before such an order is made, the Court shall cause such notice as it thinks reasonable to be served on or left at the dwelling-house of the person with whom or under whose care the defendant is ; and also, unless the Court sees good reason to the contrary, in the case of an infant not residing with or under the care of his father or guardian, to be served on or left at the dwelling-house of his father or guardian.

138. The Court may, by order, allow facts occurring after the institution of a suit to be introduced by way of amendment into the petition or answer at any stage of the proceedings.

139. Where, after the institution of a suit, any change or transmission of interest or liability occurs in relation to any party to the suit, or any party to the suit dies, or (being a woman) marries, or the suit in any other way becomes defective or incapable of being carried on, any person interested may obtain from the Court any order requisite for curing the defect, or enabling or compelling proper parties to carry on the proceedings.

But any person served with such an order may, within such time, not exceeding fourteen days, as the Court in the order directs, apply to the Court to discharge the order.

140. At any time after answer the Court may, if it thinks fit, on the application of any party, or of its own motion, proceed to ascertain the material questions in controversy between the parties, and may reduce those questions into writing, and settle them in the form of issues, which issues, when settled, shall, for the purposes of the subsequent proceedings, supersede the petition and answer, except that the petition and answer may be used, as containing issues or otherwise, for purposes of evidence on the trial of the issues.

141. Where the plaintiff does not obtain an order for setting down the suit for hearing within three months from the time at which he might first apply for it, the defendant may apply to the Court for an order to dismiss the petition for want of prosecution.

The Court thereupon, if it thinks fit, may make an order dismissing the petition, or may make such other order or impose such terms as it thinks fit.

142. If, at the hearing, the plaintiff does not appear, the Court shall, unless the Court sees good reason to the contrary, strike out the suit, and make such order respecting costs in favour of any defendant appearing as the Court thinks just.

If the plaintiff a second time in like manner fails to appear, the Court shall, unless it sees good reason to the contrary, dismiss the petition, which dismissal shall have the like effect as a dismissal on the merits at the hearing.

143. If, at the hearing, the plaintiff appears, but the defendant or any of the defendants does not appear, the Court shall, before hearing the suit, inquire into the service of the petition and of notice of hearing on the absent party or parties.

The Court, if not satisfied respecting service on every party, shall order that further service be made as the Court directs, and shall adjourn the hearing for that purpose.

The Court, on being satisfied respecting service on every party, may, if it thinks fit, proceed to hear the suit, notwithstanding the absence of the defendant or any of the defendants.

144. If the Court hears the suit and makes an order against the defendant in his absence, the Court may afterwards, on such terms as the Court thinks fit, re-hear the suit on proof that his absence was excusable, and that he has a defence on the merits.

145. The Court shall, at the hearing, order all such amendments as the Court thinks necessary or proper for bringing to a determination in the suit the real questions in controversy between the parties.

146. Where it appears to the Court that the matter in dispute in a suit consists either wholly or in part of matters of mere account, the Court may, according to the amount of public business pending, either decide at once the matters of account, or order that they be referred, either wholly or in part, to some person agreed on by the parties, or, in case of their non-agreement, appointed by the Court.

The referee shall enter into the account and hear evidence and report on it to the Court, according to the order, and the Court, after hearing the parties, may adopt the conclusions of the report, either wholly or in part, or may direct a further report to be made by the referee, and may grant any necessary adjournment for that purpose.

147. In any Court other than that of the Consul-General, any decision or judgment may be given, or verdict taken, subject to a case to be stated for the opinion of the Consul-General.

148. An application made by motion shall not be entertained until the party moving has filed in the Court a written motion paper stating the terms of the order sought.

There shall be filed with the motion paper all affidavits on which the person moving intends to rely. No other evidence shall be used in support of the motion except by leave of the Court.

No paper accompanying the motion paper other than an affidavit shall be received.

A motion may be made without notice in the first instance or on notice of motion.

149. An application for a summons may be made in writing, or in person.

If the Court thinks fit, it may issue a summons ordering the person to whom it is directed, as respondent, to appear at the time and place specified therein, and stating the nature of the application to be made.

On the return day of the summons, if the respondent attends, or in his absence on proof of service, the Court may, on the application of the person obtaining the summons, consider and deal with the application in a summary way.

150. Where an order is made without service of notice of the application, an office copy of the affidavit or deposition on which the order is made shall be served on the person affected by the order, with the order.

Any person affected by the order may, within seven days after service of it, but not later except by leave of the Court, apply to the Court to vary or discharge it; and the Court, on notice to the person obtaining the order, may make such order as the Court thinks just.

151. An order to show cause shall specify a day when cause is to be shown, called the return day to the order, which shall ordinarily be not less than four days after service.

A person served with an order to show cause may, before the return day, file affidavits in order to contradict the evidence used in obtaining the order, or setting forth other facts.

On the return day, if the persons served do not appear, and service is not proved, the Court may enlarge the time and direct further service, or make such other order as it thinks just.

If the persons served appear, or service is proved, the Court may proceed with the matter, and make such order as it thinks just.

152. Where a person not a party to a suit obtains an order, or has an order made in his favour, he is entitled to enforce obedience thereto by the same process as if he were a party to the suit.

A person not a party to a suit against whom obedience to an order may be enforced is liable to the same process for enforcing obedience thereto as if he was a party to the suit.

153. All money ordered by the Court to be paid by any person shall be paid into Court, unless the Court otherwise directs.

154. An order shall be drawn up in form only on the application of some party to the suit, and shall then be passed and be certified by the seal of the Court, and be entered, and shall then form part of the record.

An order shall not be enforced or appealed from, nor shall an office copy of it be granted, until it is part of the record.

An order shall be dated on the day of the delivery of the decision or judgment on which the order is founded.

Any party to an application or suit is entitled to obtain an office copy of any order made therein.

155. Ordinarily, an order, other than an order of the Consul-General, shall not be enforced out of the particular jurisdiction.

Where, however, the Court making the order thinks that the urgency or other peculiar circumstances of the case so require, the Court (for reasons recorded in the minutes) may order it to be enforced out of the particular jurisdiction.

156. When an order orders a person to pay money, or do any other act, the same or some subsequent order shall state the precise time within which the payment, or other act, is to be made or done, reckoned from the date or service of the order in which the time is stated, or from some other point of time, as the Court thinks fit.

The time stated may be immediately after service of the order, if the Court thinks fit.

A person ordered to pay money, or do any other act, is bound to obey the order on being served with it, and without any demand for payment or performance.

157. The Court may, if it thinks fit, order that money ordered to be paid, be paid by instalments specified.

158. Where an order orders payment of money, there shall be indorsed on the copy of it served on the person required to obey it, a memorandum of the words, or to the effect following :—

If you, the within-named A.B., neglect to obey this order by the time therein appointed, you will be liable to have a writ of execution issued against your goods, under which they may be seized and sold ; and you will also be liable to be summoned by the Court, and to be examined respecting your ability to make the payment directed by this Order, and to be imprisoned in case of your not answering satisfactorily on that examination.

159. Where an order orders payment of money, and the person ordered to pay refuses or neglects to do so according to the order, a person entitled to the benefit of the order may apply to the Court for execution against the goods of the disobedient person.

Thereupon the Court shall, unless it sees good reason to the contrary, issue an order of execution (in this Order called an execution order), ordering and empowering an officer of the Court, therein named, to levy the money ordered to be paid, by distress and sale of the goods of the disobedient person (in this Order called the "execution debtor"), wheresoever they may be found within the particular jurisdiction.

On the order there shall be indorsed the sum of money and costs adjudged, and the further sum to be levied for costs of the execution.

160. Where an order orders payment of money by instalments execution shall not issue until after default in payment of some instalment according to the order ; and execution, or successive executions, may then issue for the whole money then remaining unpaid, or for such portion thereof as the Court orders, either when making the original order or at any subsequent time.

161. The officer executing the order may, by virtue thereof, seize any of the goods of the execution debtor, except the wearing apparel and bedding of himself and his family, and the tools and implements of his trade, to the value of 5*l.*, all which shall to that extent be exempted from seizure.

162. The sale of the goods seized shall be made by order of the Court, and shall be conducted under the direction of the Court, and by a person nominated by the Court.

But no steps shall be taken therein without the demand of the person obtaining the execution order (in this Order called the execution creditor), and the execution creditor shall be liable for any damage ensuing from any proceeding taken at his instance.

The sale shall not be made until after the end of five days at least next following the day of seizure, unless the goods are of a perishable nature, or on the request in writing of the execution debtor.

Until sale, the goods shall be deposited by the officer in some fit place, or they may remain in the custody of a fit person approved by the Court and put in possession by the officer.

163. The Court shall not order the sale of the goods seized unless it is proved that they belong to the execution debtor, and are in a place where the Court has jurisdiction.

Where a claim is made by a third party to the goods or part thereof, the same, if made by a British subject, shall be decided by the Court in a summary way, as between the claimant and the execution creditor.

If the claim is made by a native or foreigner, the Court may, if it thinks fit, either oblige the execution creditor to establish his claim before selling the goods, or sell the goods and require the execution creditor to defend any claim.

164. The officer executing an execution order may, by virtue thereof, seize any money, bank notes, cheques, bills of exchange, promissory notes, bonds, or securities for money belonging to the execution debtor.

The Court shall hold the same (other than money and securities immediately convertible into money) as security for the amount directed to be levied, or so much thereof as is not otherwise levied, for the benefit of the execution creditor.

The execution creditor may sue in the name of the execution debtor, or in the name of any person in whose name the execution

debtor might have sued, for recovery of the money secured or made payable thereby, when the time for suing arrives.

165. If before or after seizure the execution debtor, by payment into Court or to the officer executing the order, satisfies the execution, the order shall be superseded, and the goods and property seized shall be released and delivered up.

166. Where an order ordering payment of money remains wholly or in part unsatisfied (whether an execution order has been made or not), the person prosecuting the order (in this Order called the judgment creditor) may apply to the Court for an order ordering the person by whom payment is to be made (in this Order called the judgment debtor) to appear and be examined respecting his ability to make the payment; and the Court shall, unless it sees good reason to the contrary, make an order accordingly.

167. On the appearance of the judgment debtor, he may be examined on oath by or on behalf of the judgment creditor, and by the Court, respecting his ability to pay the money directed to be paid, and for discovery of property applicable thereto, and respecting his disposal of any property.

He shall produce, on oath or otherwise, all books, papers, and documents in his possession or power relating to any property applicable to payment.

He may be examined respecting the circumstances under which he contracted or incurred the debt or liability in respect of which the payment of money is ordered to be made, and respecting the means or expectation he then had of paying or discharging the debt or liability.

He shall sign his examination as taken down in writing.

Whether the judgment debtor appears or not, the judgment creditor, and any witness whom the Court thinks requisite, may be examined, on oath or otherwise, respecting the same matters.

The Court may, if it thinks fit, adjourn the examination from time to time, and require from the judgment debtor such security for his appearance as the Court thinks fit, and in default of his finding security, may, by order, commit him to the custody of an officer of the Court, there to remain until the adjourned hearing, unless sooner discharged.

168. If it appears to the Court by the examination of the judgment debtor or other evidence—

- (i.) that the judgment debtor has then, or has had since the making of the order, sufficient means to pay the money directed to be paid by him, and he refuses or neglects to pay the same according to the order; or
- (ii.) that, with intent to defraud his creditors, or any of them, he had made or suffered any gift, delivery, or transfer of any property, or charged, removed, or concealed any property; or
- (iii.) that the debt or liability in question has been contracted or incurred by him by or by reason of fraud, or false pretence, or breach of trust committed by him; or

- (iv.) that forbearance thereof was obtained by him by fraud or false pretence ; or
- (v.) that the debt or liability was wilfully contracted or incurred by him without his having had at the same time a reasonable expectation of being able to pay or discharge it ;

then and in any such case the Court may, if it thinks fit, by order, commit him to prison for any time not exceeding forty days.

169. On the examination the Court, if it thinks fit, whether it makes an order for commitment or not, may rescind or alter any order for the payment of money by instalments or otherwise, and may make any further or other order, either for payment of the whole amount forthwith, or by instalments, or in any other manner as the Court thinks just.

170. In places where there is no other place for the detention of a debtor in custody than the prison of the authorities, the Court shall not commit the debtor to prison if it appears that that prison is unfit, regard being had to the requirements of health and decency for the confinement of a British subject under civil process.

171. The expenses of the judgment debtor's maintenance in prison shall be defrayed, in the first instance, by the judgment creditor, and may be recovered by him as the Court directs.

The expenses shall be estimated by the Court, and shall be paid by the judgment creditor at such times and in such manner as the Court directs. In default of payment the judgment debtor may be discharged if the Court thinks fit.

172. Imprisonment of a judgment debtor under the foregoing provisions shall not operate as a satisfaction or extinguishment of the debt or liability to which the order relates, or protect the debtor from being anew imprisoned for any new fraud or other default making him liable to be imprisoned, or deprive the judgment creditor of any right to have execution against his goods, as if there had not been such imprisonment.

173. The judgment debtor, on paying at any time the amount ordered to be paid, and all costs and expenses, shall be discharged.

174. Where the order is one ordering some act to be done other than payment of money, there shall be indorsed on the copy of it served on the person required to obey it a memorandum in the words, or to the effect following :—

If you, the within-named A.B., neglect to obey this order within the time therein appointed, you will be liable to be arrested, and to have your property sequestered.

175. Where the person directed to do the act refuses or neglects to do it according to the order, the person prosecuting the order may apply to the Court for another order for the arrest of the disobedient person.

Thereupon the Court shall, unless it sees good reason to the contrary, make an order ordering and empowering an officer of

the Court therein named to take the body of the disobedient person, and detain him in custody until further order.

He shall be liable to be detained in custody until he has obeyed the order in all things that are to be immediately performed, and given such security as the Court thinks fit to obey the order in other respects (if any) at the future times thereby appointed, or in case of his no longer having the power to obey the order, then until he has been imprisoned for such time, or until he has paid such fine, as the Court thinks just.

176. In case the person against whom an order of arrest issues is not and cannot be found, or is taken and detained in custody without obeying the order, then the person prosecuting the order may apply to the Court for an order of sequestration against his property.

177. The Court may admit a person to sue as a pauper, on his poverty, and his having a case proper for some relief in the Court, being proved; and may admit a period to defend as a pauper on his poverty being proved.

The Court may, if it thinks fit, by order, assign a counsel or attorney to assist a person, admitted to sue or defend as a pauper, and the counsel or attorney so assigned shall not be at liberty to refuse his assistance, unless he satisfies the Court of some good reason for refusing.

If a person admitted to sue or defend as a pauper gives or agrees to give any fee, profit, or reward for the conduct of his business in the Court, he shall be deemed guilty of a contempt of Court, and he shall also be forthwith dispaupered, and shall not be afterwards admitted again in that suit to sue or defend as a pauper.

A person admitted to sue or defend as a pauper may be dispaupered by order of the Court, on it being proved that he was not when admitted, or no longer is, of sufficient poverty, or that he is abusing his privilege by vexatious proceedings.

178. The Court may, if it thinks fit, at any time, on the application of any party, order a re-hearing of a suit.

The provisions of this Order respecting a hearing with assessors shall extend to a re-hearing.

VIII.—*Proceedings on Death.*

179. The Court shall endeavour to obtain, as early as may be, notice of the death of every British subject dying within the particular jurisdiction, whether resident or not, and all such information respecting his affairs as may serve to guide the Court with respect to the securing and administration of his property.

On receiving notice of the death, the Court shall put up a notice thereof at the place where its sittings are ordinarily held, and shall keep the same there until probate or administration is granted, or where it appears to the Court that probate or administration will not be applied for or cannot be granted, for such time as the Court thinks fit.

180. Where a British subject resident dies in Persia intestate, then, until administration is granted, his personal property shall be vested in the Consul-General.

181. Where a British subject not resident dies in Persia, the Court within whose particular jurisdiction he dies shall, where the circumstances of the case appear to the Court so to require, forthwith on his death, or as soon after as may be, take possession of his personal property within the particular jurisdiction, or put it under the seal of the Court (in either case if the nature of the property or other circumstances so require, making an inventory), and so keep it until it can be dealt with according to law.

182. If any person, other than the person named executor or an administrator or an officer of the Court, takes possession of and administers or otherwise deals with any part of the personal property of a British subject dying in Persia, whether resident or not, he shall be deemed guilty of a contempt of Court, and shall be liable to such fine, not exceeding 50*l.*, as the Court having jurisdiction over the property of the deceased thinks fit to impose.

183. Where a British subject dies in Persia, whether resident or not, then any person having in his possession or under his control any paper or writing of the deceased, being or purporting to be testamentary, shall forthwith bring the original to the Court within whose particular jurisdiction the death happens, and deposit it there.

If any person fails to do so for fourteen days after having knowledge of the death of the deceased, he shall be deemed guilty of a contempt of Court, and shall be liable to a fine, not exceeding 50*l.*, as the Court thinks fit to impose.

184. Where it is shown to the Court that any paper of the deceased, being or purporting to be testamentary, is in the possession or under the control of a British subject, the Court may, in a summary way, whether a suit or proceeding respecting probate or administration is pending or not, order him to produce the paper and bring it into Court.

Where it appears to the Court that there are reasonable grounds for believing that any such person has knowledge of any paper being or purporting to be testamentary (although it is not shown that the paper is in his possession or under his control), the Court may, in a summary way, whether a suit or proceeding for probate or administration is pending or not, order that he be examined respecting it in open Court or on interrogatories, and that he do attend for that purpose, and after examination that he do produce the paper and bring it into Court.

185. Probate or letters of administration with will annexed shall not issue for seven days from the death of the deceased, except under the direction of the Consul-General, or in case of great urgency.

Letters of administration (not with will annexed) shall not issue for fourteen days from the death of the deceased, except

under the direction of the Consul-General, or in case of great urgency.

186. If any person, named executor in the will of the deceased, takes possession of and administers or otherwise deals with any part of the personal property of the deceased, and does not obtain probate within one month after the death, or after the termination of any suit or dispute respecting probate or administration, he shall be deemed guilty of a contempt of Court, and shall be liable to such fine, not exceeding 50*l.*, as the Court thinks fit to impose.

187. The Court may, of its own motion, or on the application of any person claiming an interest under a will, give notice to the executors (if any) therein named, to come in and prove the will or to renounce probate, and they, or some or one of them, shall, within fourteen days after notice, come in and prove or renounce accordingly.

188. Where probate or administration is, for the first time, applied for after three years from the death of the deceased, a grant shall not be made except under the direction of the Consul-General.

189. Where, in a Court other than that of the Consul-General, a dispute or question arises in relation to the grant or the application for it, or it appears to the Court doubtful whether or not the grant should be made, the Court shall communicate with the Consul-General.

The Consul-General shall direct the other Court to proceed in the matter according to such instructions as the Consul-General thinks fit, or shall, by order, remove the matter to the Court of the Consul-General.

190. A Court, other than the Consul-General, before proceeding on an application, shall ascertain that the deceased was, at his death, resident in the particular jurisdiction, and shall not for this purpose consider itself bound to rest satisfied with the evidence offered by the applicant.

191. The Court shall require evidence in addition to that offered by the applicant, of the identity of the deceased, or of the applicant, where additional evidence in that behalf seems to the Court necessary or desirable.

192. The Court shall ascertain the value of the property of the deceased as correctly as circumstances allow.

193. In no case shall the Court issue probate or letters of administration until all inquiries which the Court sees fit to institute have been answered to its satisfaction.

The Court shall, however, afford as great facility for the obtaining of probate or administration as is consistent with due regard to the prevention of error and fraud.

194. In the following cases a grant shall not issue except from the Court of the Consul-General, namely :—

Probate or administration with will annexed, where the will

was executed before the 1st January, 1838, and there is no testamentary paper of a date later than the 31st December, 1837 ;

Probate or administration with will annexed, the will being merely an execution of a special power, or being the will of a married woman made by virtue of a power ;

Administration for the use or benefit of a minor or infant, or of a lunatic or person of unsound mind ;

Administration (with or without will annexed) of the property of a bastard dying either a bachelor or spinster, or a widower or widow without issue, or of a person dying without known relative ;

Limited administration ;

Administration to be granted to a person not resident in Persia.

195. Revocation or alteration of a grant of probate or administration shall not be made except by the Consul-General.

196. A notice to prohibit a grant of probate or administration may be filed in any Court.

Immediately on such a notice being filed, a copy thereof shall be sent to the Court of the district (if any) in which it is alleged the deceased was resident at his death, and to any other Court to which it appears to the Consul-General expedient to send a copy.

Immediately on such a notice being filed the Court shall send a copy thereof to the Consul-General, and also to the Court of any other district in which it is known or alleged the deceased had, at his death, a place of abode.

The notice shall remain in force for three months only from the day of filing ; but it may be renewed from time to time.

The notice shall not affect a grant made on the day on which the notice is filed, or on which a copy thereof is received, as the case may be.

The person filing the notice shall be warned by a warning in writing, under the seal of the Court, delivered at the place mentioned in the notice as his address.

After the notice has been filed, a grant of probate or administration shall be made only by the Consul-General.

197. Notices in the nature of citations shall be given by publication in such newspapers, or in such other manner as the Court in each case thinks fit.

198. Suits respecting probate or administration shall be instituted by petition ; and the provisions of this Order respecting proceedings in other suits instituted by petition shall extend and apply thereto.

199. Every original will, of which probate or administration with will annexed is granted, shall be filed and kept in the public office of the Court from which the grant issues, in such manner as to secure at once the due preservation and the convenient inspection of the same.

No original will shall be delivered out for any purpose without the direction in writing of the Consul-General.

An office copy of the whole or any part of a will, or an official

certificate of a grant of administration, may be obtained from the Court where the will is proved or the administration granted, on payment of the proper fees.

200. On the 1st February and the 1st August in every year every Provincial Court shall send to the Consul-General :—

A list of the grants of probate and administration made by the Court up to the last preceding 1st January and 1st July respectively, not included in any previous list :
And a copy, certified by the Court to be a correct copy, of every will to which each probate or administration relates.

201. On receiving an application for probate or for administration with will annexed, the Court shall inspect the will and see whether it appears to be signed by the testator, or by some other person in his presence and by his direction, and to be subscribed by two witnesses, according to the enactments relative thereto, and shall not proceed further if the will does not appear to be so signed and subscribed.

If the will appears to be so signed and subscribed, the Court shall then refer to the attestation clause (if any), and consider whether the wording thereof states the will to have been, in fact, executed in accordance with those enactments.

If there is no attestation clause, or if the attestation clause is insufficient, the Court shall require an affidavit from at least one of the subscribing witnesses, if either of them is living, to prove that the will was, in fact, executed in accordance with those enactments.

The affidavit shall be engrossed and form part of the probate, so that the probate may be a complete document on the face of it.

If, on perusal of the affidavit, it appears that the will was not, in fact, executed in accordance with those enactments, the Court shall refuse probate.

If, on perusal of the affidavit, it appears to the Court doubtful whether or not the will was, in fact, executed in accordance with those enactments, the Court, if other than the Court of the Consul-General, shall communicate with him for directions.

If both the subscribing witnesses are dead, or if, from other circumstances, such an affidavit cannot be obtained from either of them, resort for such an affidavit shall be had to other persons (if any) present at the execution of the will ; but if no such affidavit can be obtained, proof shall be required of that fact and of the handwritings of the deceased, and of the subscribing witnesses, and also of any circumstances raising a presumption in favour of the due execution of the will.

202. Where the testator was blind or illiterate, the Court shall not grant probate of the will, or administration with the will annexed, unless the Court is first satisfied, by proof or by what appears on the face of the will, that the will was read over to the deceased before its execution, or that he had at that time knowledge of its contents.

Where this information is not forthcoming, the Court, if other than the Court of the Consul-General, shall communicate with him for directions.

203. The Court, on being satisfied that the will was duly executed, shall carefully inspect it to see whether there are any interlineations or alterations or erasures or obliterations appearing in it, and requiring to be accounted for.

Interlineations, alterations, erasures, and obliterations are invalid unless they existed in the will at the time of its execution, or unless, if made afterwards, they have been executed and attested in the mode required by the said enactments, or unless they have been made valid by the re-execution of the will, or by the subsequent execution of some codicil thereto.

Where interlineations, alterations, erasures, or obliterations appear in the will (unless duly executed or recited in or otherwise identified by the attestation clause), an affidavit in proof of their having existed in the will before its execution shall be filed.

If no satisfactory evidence is adduced respecting the time when an erasure or obliteration was made, and the words erased or obliterated are not entirely effaced, and can, on inspection of the will, be ascertained, they shall form part of the probate.

Where words have been erased which might have been of importance, an affidavit shall be required.

If reasonable doubt exists in regard to any interlineation, alteration, erasure, or obliteration, the Court, if other than the Court of the Consul-General, shall communicate with him for directions.

204. Where a will contains a reference to any document, of such a nature as to raise a question whether it ought or ought not to form a constituent part of the will, the Court shall require the production of the document, with a view to ascertaining whether or not it is entitled to probate ; and if it is not produced, a satisfactory account of its non-production shall be proved.

A document cannot form part of a will unless it was in existence at the time when the will was executed.

If there are vestiges of sealing wax or wafers or other marks on the will, leading to the inference that some document has been at some time annexed or attached thereto, a satisfactory account of them shall be proved, or the production of the document shall be required ; and if it is not produced, a satisfactory account of its non-production shall be proved.

If doubt exists whether or not a document is entitled to probate as a constituent part of a will, the Court, if other than that of the Consul-General, shall communicate with him for directions.

205. Where a person appointed executor in a will survives the testator, but either dies without having taken probate, or having been called on by the Court to take probate, does not appear, his right in respect of the executorship wholly ceases ; and without further renunciation, the representation to the testator and the administration of his property shall go and may be committed as if that person had not been appointed executor.

206. Every will or copy of a will to which an executor or an administrator, with will annexed, is sworn, shall be marked by the executor or administrator, and by the person before whom he is sworn.

207. The Court shall take care that the copies of wills to be annexed to probates or letters of administration are fairly and properly written, and shall reject any not so written.

208. The Court in granting letters of administration shall proceed, as far as may be, as in cases of probate.

The Court shall ascertain the time and place of the deceased's death, and the value of the property to be covered by the administration.

The person to whom administration is granted shall give bond with two or more responsible British subjects as sureties to the Consul-General to ensure to the Consul-General for the time being, conditioned for duly collecting, getting in, and administering the personal property of the deceased.

Where, however, the property is under the value of 50*l.* the Court may, if it thinks fit, take one surety only.

The bond shall be in a penalty of double the amount under which the personal estate of the deceased is sworn, unless the Court in any case thinks it expedient to reduce the amount, for reasons to be forthwith certified to the Consul-General.

The Court may also in any case direct that more bonds than one shall be given, so as to limit the liability of any surety to such amount as the Court thinks reasonable.

The Consul-General may, on being satisfied that the condition of the bond has been broken, assign the same to some person, and that person may thereupon sue on the bond in his own name, as if it had been originally given to him instead of to the Consul-General, and may recover thereon, as trustee for all persons interested, the full amount recoverable in respect of any breach of the condition of the bond.

209. Where administration is applied for by one or some of the next of kin only, there being another or other next of kin equally entitled thereto, the Court shall require proof that notice of the application has been given to the other next of kin.

210. A person claiming to be a creditor or legatee, or the next of kin, or one of the next of kin, of a deceased person, may apply for and obtain, without petition filed or other preliminary proceeding, a summons from the Court requiring the executor or administrator (as the case may be) of the deceased to attend before the Court and show cause why an order for the administration of the property of the deceased should not be made.

On proof of service of the summons, or on appearance of the executor or administrator, and on proof of all such other things (if any) as the Court thinks fit, the Court may, if it thinks fit, make an immediate order for the administration of the property of the deceased. and the order so made shall have the force of an

order to the like effect made on the hearing of a suit between the same parties.

The Court shall have full discretionary power to make or refuse any such order, or to give any special directions respecting the carriage or execution of it, and in the case of applications for such an order by two or more different persons, or classes of persons, to grant the same to such one or more of the claimants, or classes of claimants, as the Court thinks fit.

If the Court thinks fit, the carriage of the order may subsequently be given to such person, and on such terms, as the Court thinks fit.

On making such an order, or at any time afterwards, the Court may, if it thinks fit, make any further or other order for compelling the executor or administrator to bring into Court, for safe custody, all or any part of the money, or securities, or other property of the deceased, from time to time coming to his hands, or otherwise for securing the safe keeping of the property of the deceased, or any part thereof.

If the extreme urgency or other peculiar circumstances of the case appear to the Court so to require (for reasons recorded in the minutes), the Court may, of its own motion, issue such a summons, and make such an order or such orders, and cause proper proceedings to be taken thereon.

211.—(a.) Where probate, administration, or confirmation is granted in England, Ireland, or Scotland, and therein, or by a memorandum thereon signed by an officer of the Court granting the same, the testator or intestate is stated to have died domiciled in England, Ireland, or Scotland (as the case may be), and the probate, administration, or confirmation is produced to, and a copy thereof is deposited with, the Court, the Court shall write thereon a certificate of that production and deposit ; and thereupon the probate, administration, or confirmation shall, with respect to the personal property in Persia of the testator or intestate, have the like effect as if he had been resident in those dominions at his death, and probate or administration to his personal property there had been granted by the Consul-General.

(b.) Any person who, in reliance on an instrument purporting to be a probate, administration, or confirmation granted in England, Ireland, or Scotland, and to bear such a certificate of the Court as in this article prescribed, makes or permits any payment or transfer, in good faith, shall be, by virtue of this Order, indemnified and protected in respect thereof, in Persia, notwithstanding anything affecting the validity of the probate, administration, or confirmation.

(c.) The following shall be the terms of the certificate of the Court in this article prescribed (namely) :—

This probate has [or these letters of administration have, or this confirmation has] been produced to this Court. and a copy thereof has been deposited with this Court.

212.—(1.) In a case of apparent intestacy, where the circumstances of the case appear to the Court so to require, for reasons

recorded in the minutes, the Court may, if it thinks fit, of its own motion, or otherwise, grant administration to the Judge or an officer of the Court.

(2.) Any officer so appointed shall act under the direction of the Court, and shall be indemnified thereby.

(3.) A commission of 5 per cent., or such less amount as a Secretary of State directs, may be charged on an estate administered under this article, and the amount thereof shall be calculated and applied as a Secretary of State directs.

(4.) All expenses incurred on behalf of the Court in the execution of this article and the said commission shall be the first charge on the personal property of the deceased in the district of the Court; and the Court shall by sale of part of that property or otherwise, provide for the discharge of those expenses and the payment of the said commission.

213. Where it appears to the Court that the value of the property or estate of a deceased British subject does not exceed 100*l.*, the Court may, without any probate or letters of administration, or other formal proceeding, pay thereout any debts or charges, and pay, remit, or deliver any surplus to such persons in such manner as a Secretary of State from time to time directs, and shall not be liable to any action, suit, or proceedings in respect of anything done under this Act.*

IX.—*Appeal to Consul-General.*

1.—*General Provisions.*

214. Where in a civil suit or proceeding a decision of a Provincial Court, sitting with or without assessors—

- (i.) is given in respect of a sum of 50*l.* or upwards; or
- (ii.) determines, directly or indirectly, a claim or question respecting money, goods, or other property, or any civil right or other matter of the amount or value of 50*l.* or upwards;

any party aggrieved by the decision may apply to the Court (in this Order referred to as the Court below) for leave to appeal to the Consul-General.

The applicant shall give security to the satisfaction of the Court below, to an amount not exceeding 100*l.* for prosecution of the appeal, and for payment of all such costs as may be awarded to any respondent by the Consul-General.

He shall also pay into the Court below a sum estimated by that Court to be the amount of the expense of the making-up and transmission to the Consul-General of the record.

If security and payment are so given and made within fourteen days after application made, then and not otherwise the Court below shall (subject to the provisions of this Order) give leave to appeal.

* Apparently a misprint for "Order."

In any other case the Court below may, if that Court think fit, give leave to appeal on like terms.

In any case the Consul-General may give leave to appeal on such terms as he thinks just.

215. After six months from the date of an order, application for leave to appeal against it shall not be entertained by the Court below.

After twelve months from the date of an order, application for leave to appeal against it shall not be entertained by the Consul-General.

216. Where leave to appeal is applied for by a person ordered to pay money, or do any other act, the Court below shall direct either that the decision to be appealed from be carried into execution or that the execution thereof be suspended pending the appeal, as that Court thinks just.

If the Court directs the decision to be carried into execution, the person in whose favour it is given shall, before the execution of it, give security to the satisfaction of the Court for performance of such order as shall be made on appeal.

If the Court directs the execution of the decision to be suspended, the person against whom it is given shall, before an order for suspension is made, give security to the satisfaction of the Court for performance of such order as shall be made on appeal.

217. An appeal shall not lie from an order made without notice.

If any person thinks himself aggrieved by an order so made he may apply to the Court below to vary or discharge it, and an appeal lies from the decision on that application.

218. An appeal from an order made at the hearing of a suit shall be made by petition.

Other appeals shall be made by motion.

2.—*Appeals by Petition.*

219. In case of an appeal by petition, the appellant shall file his petition of appeal in the Court below within fourteen days after leave to appeal is given.

220. The petition shall contain an exposition of the appellant's case as supported by evidence already before the Court and by the record as it stands.

It shall set forth the grounds of appeal and the particulars in which the order appealed from is considered by the appellant to be erroneous or defective, and shall pray that the order may be reversed or varied, and that the Consul-General may make the particular order to which, on the record and evidence as it stands, the appellant conceives himself entitled, or such other order as the Court shall think just.

It may contain any matter by way of argument in support of the appeal.

The petition of appeal shall be served on such persons as respondents as the Court below directs.

221. A respondent may, within fourteen days after service, file in the Court below an answer to the petition, including petition of cross appeal.

The answer shall contain an exposition of his case as supported by the evidence already before the Court and by the record as it stands.

It may contain any matter by way of argument against the appeal, or in support of the cross appeal.

Copies of the answer shall be furnished by the Court below to such persons as the Court of Appeal thinks fit.

222. An objection to an appeal as being out of time, or on any ground other than on the merits, shall be substantially raised by the party desiring to rely thereon in and by his answer.

Where an answer is not filed, or such an objection is not raised in the answer, no such objection shall be admitted at the hearing of the appeal.

But the absence of an answer shall not preclude any person interested in supporting the order from supporting it on the merits at the hearing of the appeal.

223. On the expiration of the time for answering, the Court below shall, without receiving any further pleading in appeal, and without the application of any party, make up the record of appeal, which shall consist of the petition, answer, orders, and proceedings, a certified copy of all written and documentary evidence admitted or tendered, and the notes of the oral evidence, the petition of appeal, and the answer.

The several pieces shall be fastened together, consecutively numbered, and the whole shall be secured by the seal of the Court below, and be forthwith forwarded by that Court to the Consul-General.

The Court below shall not, except for some special cause, take on itself the responsibility of the charge or of the transmission to the Consul-General of original letters or documents produced in evidence. They shall be returned to the parties producing them, and they shall produce the originals if required by the Consul-General, at or before the hearing of the appeal.

224. After the record of appeal is transmitted, until the appeal is disposed of, the Consul-General shall be in possession of the whole suit as between the parties to the appeal.

Every application in the suit shall be made to the Consul-General, and not to the Court below, but any application may be made through the Court below.

225. The Consul-General shall, after receiving the record of appeal, fix a day for the hearing thereof, and shall give notice thereof through the Court below to the parties to the appeal, such a day being fixed as will allow of the parties attending in person, or by counsel or attorney, if they so desire.

But if all the several parties to an appeal appear in person, or

appoint persons there to represent them as their counsel or attorneys in the appeal, and cause the appearance or appointment to be notified to the Consul-General, the Court shall dispose of the appeal without giving notice through the Court below of the day fixed for the hearing thereof.

226. The Consul-General may, if he thinks fit, require a party to an appeal to appear personally on the hearing of the appeal, or on any occasion pending the appeal.

227. It is not open, as of right, to a party to an appeal to adduce new evidence in support of his original case, but a party may allege any facts essential to the issue that have come to his knowledge after the decision of the Court below, and may adduce evidence in support of his allegations.

The Consul-General may allow or require new evidence to be adduced.

228. The Consul-General may, from time to time, make any order necessary for determining the real question in controversy in the appeal, and for that purpose may amend any defect or error in the record of appeal.

The Consul-General may direct the Court below to inquire into and certify its finding on any question which he thinks fit to determine before final judgment in the appeal.

Generally, the Consul-General shall have as full jurisdiction over the whole suit as if it had been originally instituted and prosecuted before him, and may re-hear the whole case, or may remit it to the Court below to be re-heard, or to be otherwise dealt with as he directs.

3.—*Appeals by Motion.*

229. In case of an appeal by motion, the appellant shall file his appeal motion paper in the Court below within seven days after leave to appeal is given.

He may at the same time file any argument which he desires to submit to the Consul-General in support of the appeal.

The motion paper and the argument (if any) shall be served on such persons as respondents as the Court below directs.

A respondent may, within seven days after service, file in the Court below such argument as he desires to submit to the Consul-General against the appeal.

Copies thereof shall be furnished by the Court below to such persons as the Consul-General directs.

On the expiration of the time for the respondent filing his argument, the Court below shall make up the record of appeal as nearly as may be as on an appeal by petition.

Where a party to the appeal notifies his desire to attend in person, or by counsel or attorney, when the motion is being disposed of, he shall be at liberty to do so, and the Court shall hear him, or his counsel or attorney, before disposing of the motion.

X.—Appeal to Her Majesty in Council.

230. Where in a civil suit or proceeding a final order of the Consul-General, or a rule or order having the effect of a final or definite judgment decree or sentence—

(i.) is made or given in respect of a sum of 500*l.* or upwards ;
or

(ii.) determines, directly or indirectly, a claim or question respecting money, goods, or other property, or any civil right or other matter at issue, of the amount or value of 500*l.* or upwards ; any party aggrieved thereby may, within 15 days after the same is made or given, apply by motion to the Consul-General for leave to appeal to Her Majesty the Queen in Council.

The applicant shall give security to the satisfaction of the Consul-General to an amount not exceeding 500*l.* for the prosecution of the appeal, and for payment of all such costs as may be awarded to any respondent by Her Majesty in Council, or by the Lords of the Judicial Committee of Her Majesty's Privy Council.

He shall also pay a sum estimated to be the amount of the expense of the making-up and transmission to England of the transcript of the record.

If security and payment are so given and made within one month from the filing of the motion paper for leave to appeal, then, and not otherwise, the Consul-General shall give leave to appeal, and the appellant shall be at liberty to prefer and prosecute his appeal to Her Majesty in Council according to the rules for the time being in force respecting appeals to Her Majesty in Council from Her colonies, or such other rules as Her Majesty in Council from time to time thinks fit to make concerning appeals.

In any case the Consul-General, if he considers it just or expedient to do so, may give leave to appeal on the terms and in the manner aforesaid.

231. Where leave to appeal is applied for by a person ordered to pay money, or do any other act, the Consul-General shall direct either that the order appealed from be carried into execution, or that the execution thereof be suspended pending the appeal, as he thinks just.

If he directs the order to be carried into execution, the person in whose favour it is made shall, before the execution of it, give security for performance of such order as Her Majesty in Council may think fit to make.

If the execution of the order is directed to be suspended the party against whom it was made shall, before an order for suspension is made, give security for performance of such order as Her Majesty in Council may think fit to make.

232. This Order shall not affect the right of Her Majesty at any time on the humble petition of a person aggrieved by a decision of the Consul-General, to admit his appeal thereon on such terms and in such manner as Her Majesty in Council may think fit, and

to deal with the decision appealed from in such manner as may be just.

XI.—*Criminal Authority and Procedure.*

1.—*General Provisions.*

233. Except as regards offences against any treaties between Her Majesty the Queen and Persia, or against any rules and regulations for the observance thereof, or for the maintenance of order among British subjects in Persia, made by or under the authority of Her Majesty, or against any of the provisions of this Order—

Any act done by a British subject in Persia that would not by a Court of Justice having criminal jurisdiction in England be deemed a crime or offence making the person doing the act amenable to punishment in England, shall not, in the exercise of criminal jurisdiction under this Order, be deemed a crime or offence making the person doing the act amenable to punishment.

234. If a British subject is guilty—

- (i.) of publicly deriding, mocking, or insulting any religion established or observed within Persia ; or
- (ii.) of publicly offering insult to any religious service, feast, or ceremony established or kept in any part of Persia or to any place of worship, tomb, or sanctuary belonging to any religion established or observed there, or belonging to the ministers or professors thereof ; or
- (iii.) of publicly and wilfully committing any act tending to bring any religion established or observed within Persia, or its ceremonies, mode of worship, or observances, into hatred, ridicule, or contempt, and thereby to provoke a breach of the public peace ;

he shall be deemed guilty of an offence against this Order, and shall for every such offence be liable, in the discretion of the Court, to imprisonment for not more than two years with or without hard labour, and with or without a fine of not more than 100*l.*, or to a fine of not more than 100*l.* alone.

Notwithstanding anything in this Order, every charge against a British subject of having committed an offence under this provision shall be heard and determined by summary trial ; and any Provincial Court shall have power to impose the punishment aforesaid.

Consular officers shall take such precautionary measures as seem to them proper and expedient for the prevention of such offences.

235. Every Court shall have authority to cause to be apprehended and brought before it any British subject being within the district of the Court and charged with having committed a crime or offence within Persia, and to deal with the accused

according to the jurisdiction of the Court and in conformity with the provisions of this Order.

236. Where a British subject charged with a crime or offence escapes or removes from the consular district within which the crime or offence was committed and is found within another consular district, the Court within whose district he is found may proceed in the case to examination, trial on indictment, and punishment, or to summary trial (as the case may require), in like manner as if the crime or offence had been committed in its own district; or may, on the requisition or with the consent of the Court within whose district the crime or offence was committed, send him in custody to that Court, or require him to give security for his surrender to that Court, there to answer the charge and to be dealt with according to law.

Where any person is to be so sent in custody, a warrant shall be issued by the Court within whose district he is found, and that warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person therein named, and to carry him to and deliver him up to the Court within whose district the crime or offence was committed, according to the warrant.

237. Where a warrant or order of arrest is issued by a competent authority within the limits of the Persian coast * for the apprehension of a British subject who is accused of having committed a crime or offence within the jurisdiction of the authority issuing the warrant or order, and who is, or is supposed to be, in Persia, and the warrant or order is produced to the Court, the Court may back the warrant or order, and the same, when so backed, shall be sufficient authority to any person to whom it was originally directed, and also to any constable or any other officer of the Court by which it is backed, to apprehend the accused at any place in Persia where the Court backing the warrant or order has jurisdiction, and to carry him to and deliver him up within the limits of the Persian coast, according to the warrant or order.

238. Where a person is charged with the commission of a crime or offence the cognisance whereof appertains to the Court, and it is expedient that the crime or offence be inquired of, tried, determined, and punished within Her Majesty's dominions elsewhere than in England, the accused may (under the Foreign Jurisdiction Act,† section 4) be sent for trial, as follows, namely, with respect to native Indian subjects, to Bombay; and with respect to other British subjects, to Malta, or in the case a native of, or person domiciled in Cyprus, to Cyprus.

The Consul-General may, where it appears so expedient, by warrant under his hand and seal, cause the accused to be sent

* See Persian Coasts and Islands Order in Council, 1889, printed at p. 667 below.

† The Foreign Jurisdiction Act, 1843 (6 & 7 Vict. c. 94), now repealed and consolidated with other Acts by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

for trial to Bombay or to Malta or Cyprus (as the case may require) accordingly

The warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person therein named, and to carry him to and deliver him up to Bombay or to Malta or Cyprus (as the case may be), according to the warrant.

Where any person is to be so sent to Bombay or to Malta or Cyprus, the Court before which he is charged shall take the preliminary examination, and shall bind over such of the proper witnesses as are British subjects in their own recognisances, to appear and give evidence on the trial.

2.—*Court of the Consul-General.*

239. All crimes which in England are capital shall, subject to the provisions of this Order, be tried by the Consul-General, with an assessor or assessors.

The Consul-General shall have an original jurisdiction to try all other crimes and offences. Where penal servitude or imprisonment for more than one year can be inflicted, the Consul-General shall, if practicable, try the case with an assessor or assessors.

240. The Consul-General may impose the punishment of imprisonment for not more than five years, with or without hard labour, and with or without a fine of not more than 500*l.*, or the punishment of a fine alone of not more than 500*l.*

241. Where an accused person is convicted of murder, the proper officer of the Court shall, in open Court, require the offender to state if he has anything to say why judgment of death should not be recorded against him.

If the offender does not allege anything that would be sufficient in law to prevent judgment of death if the offence and trial had been committed and had in England, the Court may order that judgment of death be entered on record.

Thereupon the proper officer shall enter judgment of death on record against the offender, as if judgment of death had been actually pronounced on him in open Court.

The Court shall forthwith report the case, with the minutes and notes of evidence, to the Secretary of State, for his direction respecting the punishment to be actually imposed.

The punishment actually imposed in Persia shall not in any case exceed the measure of imprisonment and fine which the Consul-General is empowered by this Order to impose.

3.—*Provincial Courts.*

242. Where the crime or offence with which a person is charged before a Provincial Court is any crime or offence other than assault endangering life, cutting, maiming, arson, or house-breaking, and appears to the Court to be such that, if proved, it would be adequately punished by imprisonment, with or without hard labour, for not more than three months, or by a fine of not more

than 20*l.*, the Court shall hear and determine the case by summary trial and without assessors.

In other cases the Court shall, subject to the provisions of this Order, hear and determine the case on indictment and with assessors.

The Court may impose the punishment of imprisonment for not more than 12 months, with or without hard labour and with or without a fine of not more than 50*l.*, or the punishment of a fine alone of not more than 50*l.*

243. In any case pending, the Consul-General may, on application of either party, order that the case be sent up to him, to be heard and determined by him, and the case shall be so heard and determined accordingly.

244. Where the crime or offence with which an accused person is charged before a Provincial Court appears to the Court to be such that, if proved, it would not be adequately punished by such punishment as the Court has power to impose, and the accused is not to be sent for trial to a British possession, the Court shall reserve the case to be heard and determined by or under the direction of the Consul-General.

The Court shall take the depositions, and forthwith send them, with a minute of other evidence, if any, and a report on the case, to the Consul-General.

The Consul-General shall direct in what mode and where, consistently with the provisions of this Order, the case shall be heard and determined, and the same shall be so heard and determined accordingly.

4.—*Preliminary Procedure.*

245. In every case, whether the charge is or is not such as must or may be heard and determined by summary trial, the Court shall proceed, if the accused is not already in custody, either by way of summons to him, or by way of warrant for his apprehension in the first instance, according to the nature and circumstances of the case.

For the issuing of a summons the charge need not be put in writing to be sworn to unless the Court so directs.

The person effecting service shall attend at the time and place mentioned in the summons to prove service.

Notwithstanding the issuing of a summons, a warrant may be issued at any time before or after the time appointed in the summons for the appearance of the accused.

A warrant shall not be issued in the first instance unless the charge is in writing on the oath of the person laying the charge or of some witness.

If a person summoned does not obey the summons, the Court may (after proof of service of the summons) issue a warrant for his apprehension.

A warrant need not be made returnable at any particular time, but may remain in force until executed.

It may be executed by the apprehension of the accused at any

place within the particular jurisdiction, and in case of fresh pursuit it may be executed at any place in another consular district, without application to the Court for that district.

246. Where it is proved that in fact or according to reasonable suspicion anything on, by, or in respect of which a crime or offence cognisable by the Court has been committed is in a house or place of a British subject, the Court may, by warrant (called a search warrant), authorise an officer of the Court therein named to search the house or place (which shall be named or described in the order), and if anything searched for be found, to seize it, and apprehend the occupier of the house or place.

A general search warrant shall not be granted.

The officer named in the warrant shall alone execute it, but he may be accompanied by any persons necessary to assist him.

If the house or place is closed, and the officer is denied admission, after demanding admission and disclosing his authority and the object of his visit, it may be forced open.

Where there is suspicion only, the warrant shall so state, and then it shall be executed in the day-time; otherwise it may be executed in the night-time.

247. A search warrant, or a warrant for apprehension or commitment, or other purpose, may be issued and executed on Sunday, where the urgency of the case so requires.

248. The Court may order a person convicted before it, by summary trial, or on indictment, to pay all or any specified part of the expenses of his prosecution, or of his imprisonment or other punishment, or of both.

Where it appears to the Court that a charge is malicious, or frivolous and vexatious, the Court may order the prosecutor to pay all or any specified part of the expenses of the prosecution.

In these respective cases the Court may order that the whole, or such portion as the Court thinks fit, of the expenses so paid be paid over to the prosecutor or to the accused (as the case may be).

In all cases the reasons of the Court for making or refusing any such order shall be recorded in the minutes.

249. The Court may, if it thinks fit, order a person convicted before it, by summary trial or on indictment, of an assault, to pay to the person assaulted, by way of damages, a sum not exceeding 10*l*.

Damages so ordered to be paid may be either in addition to or in lieu of a penalty, and shall be recoverable in like manner as a penalty.

5.—*Summary Trial.*

250. The following provisions, under the head of summary trial apply exclusively to cases where the charge is heard and determined by summary trial.

251. Where the accused comes before the Court on summons, or warrant, or otherwise, either originally or on adjournment,

then, if the prosecutor, having had notice of the time and place appointed for the hearing or adjourned hearing of the charge, does not appear, the Court shall dismiss the charge, unless for some reason, recorded in the minutes, it thinks fit to adjourn or further adjourn the hearing.

If both parties appear the Court shall proceed to hear and finally determine the charge.

252. The room or place in which the Court sits to hear and determine the charge is an open and public Court, and the public generally may have access thereto as far as it can conveniently contain them.

253. The substance of the charge shall be stated to the accused, and he shall be asked if he admits or denies the truth of the charge.

If he admits the truth of the charge, the Court may convict him thereof.

If he denies the truth of the charge, the Court shall proceed to hear the prosecutor and his witnesses and other evidence.

At the close of the prosecutor's evidence, if it appears to the Court that the case is made out against the accused sufficiently to require him to make a defence, the Court shall ask him if he wishes to say anything in answer to the charge, or has any witnesses to examine or other evidence to adduce in his defence; and the Court shall then hear the accused and his witnesses and other evidence, if any.

254. The prosecutor shall be at liberty to conduct the charge, and to have witnesses examined and cross-examined by counsel or attorney on his behalf.

255. The accused shall be at liberty to make his full answer and defence to the charge, and to have witnesses examined and cross-examined by counsel or attorney on his behalf, and if he does not employ counsel or attorney the Court shall, at the close of the examination of each witness for the prosecution, ask the accused whether he wishes to put any questions to that witness.

If he puts any question to a witness, that witness may be re-examined by or on behalf of the prosecutor.

256. If the accused adduces in his defence any evidence other than evidence to character, the prosecutor may, if the Court thinks fit, adduce evidence in reply.

But the prosecutor shall not in any case be allowed to make any observations by way of reply to the evidence adduced by the accused, nor shall the accused in any case be allowed to make any observations on evidence adduced by the prosecutor in reply.

257. A variance between the charge and the evidence adduced in support of it with respect to the time at which the alleged crime or offence was committed shall not be deemed material if it is proved that the charge was in fact made within the time (if any) limited by law for the making thereof.

But if any variance between the charge and the evidence ap-

appears to the Court to be such that the accused has been thereby deceived or misled, the Court may adjourn the hearing.

258. At any time before or during the hearing of the charge the Court may, if he thinks fit, for reasons recorded in the minutes, adjourn the hearing.

An adjournment ordered for any cause shall be made to a certain time and place, appointed and stated at the time of adjournment in the presence and hearing of the parties, or their respective counsel or attorneys.

During an adjournment the Court may, in its discretion, according to the nature and circumstances of each case, either suffer the accused to go at large or commit him by warrant to such prison or other place of security, or to such other safe custody, as the Court thinks fit, or may discharge him on his entering into a recognisance, with or without a surety or sureties, at the discretion of the Court, for his appearance at the time and place of adjournment.

If at any time and place of adjournment of a trial which has once begun, the accused does not appear, the Court may, if it thinks fit, proceed with the further hearing as if he was present.

259. The Court having heard what each party has to say as aforesaid, and the witnesses, and the evidence adduced, shall consider the whole matter and finally determine the same, and shall either convict the accused or dismiss the charge.

In case of conviction, an order of conviction shall be drawn up in form and shall be preserved among the records of the Court.

In case of dismissal, the Court shall, on the application of the accused, make an order of dismissal, an office copy whereof shall, on being produced, without further proof, be a bar to any subsequent charge against him for the same matter.

260. Where the Court orders money to be paid by a person convicted, or by a prosecutor, for penalty, compensation, expenses, or otherwise, the money may be levied on the goods of the person ordered to pay the same, by distress and sale under warrant.

That person may pay or tender to the officer having the execution of the warrant the sum therein mentioned, with the amount of the expenses of the distress up to the time of payment or tender, and thereupon the officer shall cease to execute the same.

261. If the officer having the execution of the warrant returns that he could find no goods, or not sufficient goods, whereon to levy the money mentioned in the warrant, with expenses, the Court may by warrant commit the person ordered to pay to prison for a time specified in the warrant, unless the money, and all expenses of the distress, commitment, and conveyance to prison, to be specified in the warrant, are sooner paid.

Where it is proved that distress and sale of goods would be ruinous to the person ordered to pay the money and his family, or (by his confession or otherwise) that he has no goods whereon a distress may be levied, then the Court, if it thinks fit, may, instead of issuing a warrant of distress, commit him to prison, with or without hard labour, for a time specified in the warrant, unless the money,

and all expenses of the commitment and conveyance to prison, to be specified in the warrant, are sooner paid.

The person committed may pay the sum mentioned in the warrant, with the amount of expenses therein mentioned (if any), to the person in whose custody he is, and that person shall thereupon discharge him, if he is in custody for no other matter.

The commitment, in case of a Provincial Court, shall not be for more than fourteen days, and in any other case shall not be for more than two months.

262. Where a conviction does not order the payment of money, but orders that the offender be imprisoned, the Court shall issue a warrant of commitment accordingly.

6.—*Trial on Indictment.*

263. The following provisions, under the head of trial on indictment, apply exclusively to cases where the charge is not heard and determined by summary trial.

264. Where the accused comes before the Court on summons or warrant, or otherwise, the Court shall, in his presence, take the statements on oath of those who know the facts and circumstances of the case, and put them in writing (called the depositions).

The accused may put questions to each witness produced against him, and the witness's answer thereto shall be part of his deposition.

The deposition of each witness shall be read over to the witness, and shall be signed by him.

265. No objection to a charge, summons, or warrant, for defect in substance or in form, or for variance between it and the evidence for the prosecution, shall be allowed; but if a variance appears to the Court to be such that the accused has been thereby deceived or misled, the Court may on his application adjourn the examination.

266. The Court may by warrant, from time to time, if it thinks fit, on account of the absence of witnesses or for any other reason (recorded in the minutes), remand the accused for a reasonable time, not exceeding eight days, to some prison or other place of security.

Or if the remand is for not more than three days the Court may, by word of mouth, order the officer or person in whose custody the accused is, or any other fit officer or person, to continue or keep the accused in custody and to bring him up at the time appointed for commencement or continuance of the examination.

During remand the Court may, nevertheless, order the accused to be brought before it.

Or the Court may admit the accused to bail on the remand.

267. At the close of the evidence for the prosecution, if the Court considers it not sufficient to put the accused on his trial, the Court shall forthwith order him, if in custody, to be discharged.

268. Otherwise the Court shall (without requiring the attendance of the witnesses) read over to the accused the depositions, and shall then say to him these words:—

Having heard the evidence, do you wish to say anything in answer to the charge? You need not say anything unless you wish. You have nothing to hope from any promise of favour, and nothing to fear from any threat, held out to you to induce you to make any admission or confession. Whatever you say will be written down, and may be given in evidence against you.

Whatever the accused then says shall be written down, and shall be read over to him, and shall be kept with the depositions.

269. If the Court considers the evidence sufficient to put the accused on his trial, the Court shall order that he be tried on indictment, and shall until the trial either admit him to bail or send him to prison for safe keeping.

270. Where the accused is charged with—

Felony ;

Assault with intent to commit felony ;

Attempt to commit felony ;

Obtaining or attempting to obtain property by false pretences ;

Receiving stolen property or property obtained by false pretences ;

Perjury or subornation of perjury ;

Concealing the birth of a child by secret burying or otherwise ;

Indecent exposure of the person ;

Riot ;

Assault on a constable or officer of the Court in the execution of his duty, or on any person acting in his aid ;

Neglect or breach of duty as a constable or officer of the Court ;

the Court may, if it thinks fit, admit him to bail.

Where he is charged with an indictable misdemeanour, not before in this provision specified, the Court shall admit him to bail, unless the Court sees good reason to the contrary (recorded in the minutes).

If he is charged with murder or treason he shall not be admitted to bail except by the Consul-General.

The Consul-General may, if he thinks fit, admit any person to bail, although the Court before which the charge is made has not thought fit to do so.

A person may be admitted to bail at any time after he has been ordered to be tried on indictment.

271. The accused who is to be admitted to bail, either on demand or on or after trial ordered, shall produce such surety or sureties as in the opinion of the Court will be sufficient to insure his personal appearance as and when required, and shall with him or them enter into a recognisance accordingly.

272. The Court shall bind by recognisance the prosecutor and every witness to appear personally at the trial to prosecute, or to prosecute and give evidence, or to give evidence (as the case may be).

If a person refuses to enter into a recognisance the Court may

send him to prison, there to remain until after the trial, unless in the meantime he enters into a recognisance.

But if afterwards, from want of sufficient evidence or other cause, the accused is discharged, the Court shall order that the person imprisoned for so refusing be also discharged.

273. The room or place in which the preliminary examination is held is not an open or public Court for that purpose, and the Court may, if it thinks that the ends of justice will be best answered by so doing, order that no person have access to, or be or remain in, that room or place without the express permission of the Court.

274. A person who has been ordered to be tried on indictment shall be entitled to have a copy of the depositions, on payment of a reasonable sum, not exceeding sixpence for every 100 words, or, if the Court thinks fit, without payment.

The Court shall, at the time of ordering the trial, inform him of the effect of this provision.

275. The written charge (if any), the depositions, the statement of the accused, the recognisances of prosecutor and witnesses, and the recognisances of bail (if any), shall be carefully transmitted in proper time to the Court before which the trial is to be held.

276. The Consul-General shall, when required by the Secretary of State, send to him a report of the sentence of the Consul-General in any case tried on indictment, with a copy of the minutes and notes of evidence, and with any observations which the Consul-General thinks fit to make.

The Provincial Court shall forthwith send to the Consul-General a report of the sentence of the Court in every case tried on indictment, with a copy of the minutes and notes of evidence, and with any observations which the Court thinks fit to make.

7.—Appeal on Law to Consul-General.

277. Where a person is convicted, either by summary trial or on indictment, before a Court other than the Consul-General (in this provision referred to as the Court below):—

- (i.) if he considers the conviction erroneous in law, then, on his application (unless it appears merely frivolous, when it may be refused); or
- (ii.) if the Court below thinks fit to reserve for consideration of the Consul-General any question of law arising on the trial;

the Court below shall state a case, setting out the facts and the ground of the conviction, and the question of law, and send it to the Consul-General.

Thereupon the Court below shall, as it thinks fit, either postpone judgment on the conviction, or respite execution of the judgment, and either commit the person convicted to prison, or take security for him to appear personally and receive judgment or to deliver himself for execution of the judgment (as the case may require) at an appointed time and place.

The Consul-General shall hear and finally determine the matter and thereupon shall reverse, affirm, or amend the judgment given, or set it aside, and order an entry to be made in the minutes that in the judgment of the Consul-General the person ought not to have been convicted, or order judgment to be given at a subsequent sitting of the Court below, or make such other order as the Consul-General thinks just, and shall also give all necessary and proper consequential directions.

The judgment of the Consul-General shall be delivered in open Court, after the public hearing of any argument offered on behalf of the prosecution or of the person convicted.

Before delivering judgment, the Consul-General may, if necessary, cause the case to be amended by the Court below.

8.—*Punishment.*

278. The Consul-General may, if he thinks fit, by warrant under his hand and seal, cause an offender convicted before any Court, and sentenced to imprisonment, to be sent to and imprisoned at any place in Persia, approved for that purpose by the Secretary of State.

The warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person therein named, and to carry him to and deliver him up at the place named, according to the warrant.

279. Where an offender convicted before any Court is sentenced to imprisonment, and it appears to the Consul-General expedient that the sentence be carried into effect within Her Majesty's dominions, the offender may (under the Foreign Jurisdiction Act,* section 5) be sent for imprisonment as follows, namely, with respect to native Indian subjects to Bombay, and with respect to other persons, to Malta or Gibraltar.

The Consul-General may, by warrant under his hand and seal, cause the offender to be sent to Bombay or to Malta or Gibraltar (as the case may require), in order that the sentence may be there carried into effect accordingly.

The warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person therein named, and to carry him to and deliver him up at the place named, according to the warrant.

280. The Consul-General may, if he thinks fit, report to the Secretary of State recommending a mitigation or remission of any punishment awarded by any Court; and thereupon the punishment may be mitigated or remitted.

But such a recommendation shall not be made with respect to a punishment awarded by a Court other than the Consul-General, except on a recommendation of that other Court, or on the dissent

* The Foreign Jurisdiction Act, 1843 (6 & 7 Vict. c. 94), now re-acted and consolidated with other Acts by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

of the assessors or assessor, if any, from the conviction or from the amount of punishment awarded.

9.—Deportation of Offenders.

281.—(i.) Where it is proved that there is reasonable ground to apprehend that a British subject is about to commit a breach of the public peace, or that the acts or conduct of a British subject are or is likely to produce or excite a breach of the public peace, the Court may, if it thinks fit (for reasons recorded in the minutes), cause him to be brought before it and require him to give security, to the satisfaction of the Court, to keep the peace, or for his future good behaviour, as the case may require.

(ii.) Where a British subject is convicted of a crime or offence before the Court, or before a Court in the sentence of which one of Her Majesty's consular officers concurs, the Court for the district in which he is, may, if it thinks fit, require him to give security to the satisfaction of the Court for his future good behaviour, and for that purpose may (if need be) cause him to be brought before the Court.

In either of these cases, if the person required to give security fails to do so, the Court may order that he be deported from Persia to any British possession the Government of which consents to receive such person, or, failing such consent, to such place as the Court directs.

The Court shall not, however, without the consent of the person to be deported, direct the deportation of a native Indian subject to any place other than Bombay, or of a native of Malta, or of any of its dependencies to any other place than Malta, or of a native of Gibraltar to any place other than Gibraltar, or of a person not being a native Indian subject and being a native of any part of Her Majesty's dominions other than Malta, its dependencies, or Gibraltar, to any place other than England, or a British possession the Government of which consents to receive such person.

A Court, other than the Consul-General, shall report to the Consul-General any order of deportation made by it, and the grounds thereof, before the order is executed. The Consul-General may reverse the order or may confirm it with or without variation, and in case of confirmation shall direct it to be carried into effect.

The person to be deported shall be detained in custody until a fit opportunity for his deportation occurs.

He shall as soon as is practicable, and in the case of a person convicted either after execution of the sentence or while it is in course of execution, be embarked in custody, under the warrant of the Consul-General, on board one of Her Majesty's vessels of war, or, if there is no such vessel available, then on board any British or other fit vessel bound to the place of deportation.

The warrant shall be sufficient authority to the commander or master of the vessel to receive and detain the person therein named, and to carry him to and deliver him up at the place named according to the warrant.

Where a warrant of deportation provides for further deportation

from the place to which the person is first deported to some other place, the person shall, on his arrival at such first-mentioned place, be delivered with the warrant into the custody of the Chief Magistrate or officer of police at that place, who shall detain him, and shall forthwith report the case to the Governor or person administering the Government at that place, who shall either cause him to be further deported with and in accordance with the warrant, and in the meantime to be detained in custody for any necessary period not exceeding three months, or, if the circumstances of the case appear to render his discharge expedient, shall discharge him from custody.

The Court may order the person to be deported to pay all or any part of the expenses of his deportation. Subject thereto, the expenses of deportation shall be defrayed in such manner as the Secretary of State, with the concurrence of the Commissioners of the Treasury, from time to time directs.

The Consul-General shall forthwith report to the Secretary of State any order of deportation made or confirmed by him, and the grounds thereof.

If any person deported under this or any former order returns to Persia without permission in writing of the Secretary of State (which permission the Secretary of State may give), he shall be deemed guilty of an offence against this Order, and shall for every such offence be liable to imprisonment for not more than one month with or without hard labour, and with or without a fine of not more than 10*l.* or to a fine of not more than 20*l.* alone; and he shall also be liable to be forthwith again deported, and shall not be again entitled to registration under this Order.

XII.—*Miscellaneous.*

282. If any person subject to the criminal jurisdiction of a Court does any of the following things, namely :—

- (1.) wilfully by act or threat obstructs any officer of or person executing any process of the Court in the performance of his duty; or
- (2.) within or close to the room or place where the Court is sitting, wilfully misbehaves in a violent, threatening, or disrespectful manner to the disturbance of the Court, or to the intimidation of suitors, or others resorting thereto; or
- (3.) wilfully insults any member of the Court, or any assessor, or any person acting as a clerk or officer of the Court during his sitting or attendance in Court, or in his going to or returning from Court; or
- (4.) does any act in relation to the Court or a Judge thereof, or a matter pending therein, which, if done in relation to a Superior Court in England, would be punishable as a contempt of such Court or as a libel on such Court, or the Judges thereof, or the administration of justice therein;

such person shall be liable to be apprehended by order of the Court, with or without warrant, and on inquiry and consideration, and after the hearing of any defence which such person may offer, without further process or trial, to be punished with a fine not exceeding 5*l.*, or with imprisonment not exceeding 24 hours.

A minute shall be made and kept of every such case of punishment, recording the facts of the offence and the extent of the punishment, and a copy of the minute shall be forthwith sent to the Secretary of State.

Provided that if the Court thinks fit, instead of proceeding under the preceding provisions, it may direct or cause the offender to be tried in a separate criminal prosecution or proceeding in which the offender shall be liable to be tried and punished for his offence as an offence against this Order.

Nothing herein shall interfere with the power of the Court to remove or exclude a person who interrupts or obstructs the business of the Court.

283. If any person subject to the criminal jurisdiction of a Court does any act or makes any publication of such kind, and under such circumstances that, in the opinion of the Court, great danger to public order is thereby occasioned, the Court shall have the same powers as it has in relation to apprehended breaches of the peace.

284. Where any act or omission is by virtue of this Order, or of any regulation made under this Order, an offence against this Order, and no penalty or punishment is specified in respect thereof, such offence shall be punishable with imprisonment for not exceeding three months, or a fine not exceeding 100*l.*, or both.

285. It shall be lawful for a Court from time to time, by order or warrant under the seal of the Court, to appoint any building or place specified in such order or warrant to be a prison for any purpose of this Order, either generally or in relation to a particular case, or for a limited time, and to appoint such persons as the Court thinks fit to be goalers, keepers, or officers of any such prison.

286.—(1.) In cases of murder or manslaughter, if either the death or the criminal act which wholly or partly caused the death happened within the jurisdiction of a Court acting under this Order, such Court shall have the like jurisdiction over any British subject, who is charged either as the principal offender, or as accessory before the fact to murder, or as accessory after the fact to murder or manslaughter, as if both such criminal act and the death had happened within such jurisdiction.

(2.) In the case of any crime committed on the high seas, or within the Admiralty jurisdiction, by any British subject on board a British ship, or on board a foreign ship to which he did not belong, a Court acting under this Order shall have jurisdiction as if the crime had been committed within the jurisdiction of such Court. In cases tried under this article no different sentence

can be passed from the sentence which could be passed in England if the crime were tried there.

(3.) The foregoing provisions of this article shall be deemed to be adaptations for the purposes of this Order and of the Foreign Jurisdiction Act, 1878,* of the following enactments described in the schedule of that Act (that is to say):—

The Admiralty Offences (Colonial) Act, 1849.†

The Admiralty Offences (Colonial) Act, 1860.‡

The Merchant Shipping Act, 1867,§ section 11.

And the said enactments shall, so far as they are repeated and adopted by this article (but not further or otherwise), extend to all places within the limits of every local jurisdiction constituted under this Order.

287. The Fugitive Offenders Act, 1881,|| shall apply to Persia as if Persia were a British possession, subject to the conditions, exceptions, and qualifications following:—

- (1.) The said Act shall apply only in the case of British subjects.
- (2.) The Consul-General is, for the purposes of the said Act, substituted for the Governor of a British possession, and for a superior Court, or a Judge thereof, in a British possession, and for a Magistrate or Justice of the Peace in a British possession.
- (3.) So much of the fourth and fifth sections of the said Act, as relates to the sending a report of the issue of a warrant, together with the information, or a copy thereof, or to the sending of a certificate of committal and report of a case, or to the information to be given by a magistrate to a fugitive, shall be excepted.
- (4.) So much of the sixth section of the said Act as relates to *habeas corpus*, and as requires the expiration of 15 days before issue of a warrant, shall be excepted.
- (5.) The Consul-General shall not be bound to return a fugitive offender to a British possession unless satisfied that the proceedings to obtain his return are taken with the consent of the Governor of that possession.

288. The Colonial Prisoners Removal Act, 1884,¶ shall apply to Persia as if Persia were a British possession and part of Her Majesty's dominions, subject as follows:—

The Consul-General shall be substituted for the Governor of a British possession.

289. Nothing in this Order shall be deemed to affect Her Majesty's prerogative of pardon.

* 41 & 42 Vict. c. 67, now repealed and consolidated with other Acts by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

† 12 & 13 Vict. c. 96.

‡ 23 & 24 Vict. c. 122.

§ 30 & 31 Vict. c. 124, now repealed and consolidated with other Acts by the Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60).

|| 44 & 45 Vict. c. 69.

¶ 47 & 48 Vict. c. 31.

XIII.—*Supplemental.*

290. [*This Article (relating to Queen's Regulations) was repealed by "The Persia (Regulations) Order in Council, 1901," printed at p. 689 below.*]

291. A Court shall have jurisdiction to make an order requiring a British subject to contribute in such manner as the Court directs to the support of his wife or child, whether legitimate or not, being in the opinion of the Court under the age of 16 years. Any such order may be made in a summary way as if the neglect to provide for the support of such wife or child were an offence against this Order, and a failure to comply with any such order shall be deemed to be an offence against this Order, and shall be punishable accordingly, and the Court may direct any penalty imposed for such offence to be applied for the support of such wife or child in such manner as the Court thinks fit.

292. Any act which, if done in the United Kingdom or in a British possession, would be an offence against any of the following statutes of the Imperial Parliament or Orders in Council, that is to say :—

The Merchandise Marks Act, 1887 ; *

The Patents, Designs, and Trade Marks Acts, 1883 to 1888 ; †

Any Act, statute, or Order in Council for the time being in force relating to copyright or to inventions, designs, or trade marks ;

Any statute amending or substituted for any of the above-mentioned statutes ;

Shall, if done by a British subject within the limits of this Order, be punishable as an offence against this Order, whether such act is done in relation to any property or right of a British subject, or of a foreigner or otherwise :

Provided—

(1.) That a copy of any such statute or Order in Council shall be published in every Consular Court, and shall be there open for inspection by any person at all reasonable times ; and a person shall not be punished under this article for anything done within the district of a Court before the expiration of one month after such publication therein, unless the person offending is proved to have had express notice of the statute or Order in Council.

(2.) That a prosecution by or on behalf of a prosecutor who is not a British subject shall not be entertained without the consent in writing of the Consul-General, who may withhold such consent, unless he is satisfied that effectual provision exists for the punishment in Consular or other Courts of similar acts committed

* 50 & 51 Vict. c. 28.

† 46 & 47 Vict. c. 57 ; 48 & 49 Vict. c. 63 ; 49 & 50 Vict. c. 37 ; 51 & 52 Vict. c. 50.

by the subjects of the State or Power of which such prosecutor is a subject, in relation to or affecting the interests of British subjects.

293. Where, by virtue of any Imperial Act, of this Order, or otherwise, any provisions of any Imperial Acts, or of any law, or of any Orders in Council other than this Order, are applicable under this Order, or any form, regulation, or procedure prescribed or established under any such Act or law, are, or is so applicable, the same shall be deemed applicable so far only as the constitution and jurisdiction of the Courts acting under this Order and the local circumstances permit, and for the purposes of facilitating application may be construed or used, with such alterations and adaptations as may be necessary, and anything required to be done by or to any Court, Judge, officer, or authority may be done by or to a Court, Judge, officer, or authority having the like or analogous functions, or by any officer designated by a Secretary of State, or by the Court (as the case may require) for that purpose, and the seal of the Court may be substituted for any other seal ; and in case any difficulty occurs in the application, it shall be lawful for a Secretary of State to direct by, and to whom, and in what manner, anything is to be done, and such Act, law, order, form, regulation, or procedure shall be construed accordingly.

294. Judicial notice shall be taken of this Order, and of the commencement thereof, and of the appointment of consular or other officers, and of the constitution and limits of any jurisdiction, Court, or district, and of consular seals and signatures, and of any rules or regulations made or in force under this Order, and no proof shall be required of any of such matters.

295. Every signature or seal affixed to any instrument purporting to be the signature of any consular officer or person acting under this Order, or to be the seal of any of Her Majesty's Courts, shall for all purposes under this Order, without any proof thereof, be presumed to be genuine, and shall be taken as genuine until the contrary is proved.

296. A person attending to give evidence before the Court shall not be compelled or allowed to give any evidence or produce any documents if, in the opinion of the principal consular officer having authority in the district in which the Court is held, signified by him personally or in writing to the Court, the giving or production thereof would be injurious to Her Majesty's service.

297. Whenever an acting consular officer has commenced the hearing of any cause or matter, civil or criminal, he may, unless the consular officer otherwise directs, continue and complete the hearing and determination thereof, notwithstanding that his authority to act as such consular officer has otherwise ceased by reason of the expiration of the time for which he was appointed to act, or by reason of the happening of any event by which his authority is determined.

289. This Order shall commence and have effect as follows :—

- (1.) As to the making of any warrant or appointment under this Order, immediately from and after the date of this Order.
- (2.) As to the framing of rules of procedure or regulations, and the approval thereof by one of Her Majesty's Principal Secretaries of State, immediately from and after the date of this Order.
- (3.) As to all other matters and provisions comprised and contained in this Order, immediately from and after the expiration of one month after this Order is first exhibited in the public office of the Consul-General; for which purpose he is hereby required forthwith, on receipt by him of a copy of this Order, to affix and exhibit the same conspicuously in his public office, and he is also hereby required to keep the same so affixed and exhibited during one month from the first exhibition thereof; and notwithstanding anything in this Order, the time of the expiration of the said month shall be deemed to be the time of the commencement of this Order.
- (4.) Proof shall not in any proceeding or matter be required that the provisions of this article have been complied with nor shall any act or proceeding be invalidated by any failure to comply with any of such provisions.

299. A copy of this Order shall be kept exhibited conspicuously in each Consular Court.

Printed copies shall be provided and sold at such reasonable price as a Consular officer, subject to any direction of a Secretary of State, may fix.

And the Most Honourable the Marquis of Salisbury and the Right Honourable Lord Knutsford, two of Her Majesty's Principal Secretaries of State, and the Lords Commissioners of the Treasury, and the Lords Commissioners of the Admiralty are to give the necessary directions herein, as to them may respectively appertain.

C. L. Peel.

The First Schedule.

Forms.

1.—*Civil.*

1.

Issue for Decision on Question of Fact without Suit.

In Her Britannic Majesty's Consular Court at []
 [Saturday] the [] day of [] 18 .

Between A.B.
 and
 C.D.

The Court has ordered that the above named A.B., of
 [gentleman], and the above-named C.D., of [merchant],

may proceed to the trial of the questions of fact to be determined between them without any petition presented or other pleading.

This Court, therefore, now further orders that the following questions be tried :—

1. Whether, &c.

2. Whether, &c.

The said A.B. maintaining the affirmative, and the said C.D. the negative thereof respectively.

(Seal.)

2.

Summons on Bill of Exchange or Promissory Note.

In Her Britannic Majesty's Consular Court at []

[Thursday] the [] day of [] 18 .

Between A.B. . . . Plaintiff,

and

C.D. . . . Defendant.

To C.D., of , the above-named defendant.

You are hereby commanded, in Her Majesty's name, to attend this Court within seven days after service of this summons on you, inclusive of the day of service, and obtain leave from this Court to defend this suit; otherwise A.B., of , the above-named plaintiff, will be entitled, as of course, to an immediate absolute order against you.

(Seal.)

Indorsement on Summons.

The plaintiff claims [] pounds sterling, principal and interest [or balance of principal and interest], due to him as the payee [or indorsee] of a bill of exchange or promissory note, of which the following is a copy.

[Here copy bill or note and all indorsements on it.]

And if the amount thereof be paid to the plaintiff within [] days from the service hereof, further proceedings will be stayed.

NOTICE.

If the defendant does not, within seven days after having been served with this summons, inclusive of the day of service, obtain leave from the Court to defend this suit, the plaintiff will be entitled, as of course, at any time after the expiration of those seven days, to an immediate absolute order for any amount not exceeding the sum above claimed, and such sum as may be fixed by the Court for costs.

Leave to defend the suit may be obtained on application to the Court, supported by evidence on oath, showing that there is a defence to the suit on the merits, or that it is reasonable that the defendant should be allowed to defend the suit; or on payment into Court of the sum hereon indorsed.

3.

Summons on Claim under 20l.

In her Britannic Majesty's Consular Court at []

[Saturday] the [] day of [] 18 .

Between A.B. . . . Plaintiff,

and

C.D. . . . Defendant.

[or

In the matter of E.F., an infant.]

To C.D., of [gentleman], the above-named defendant.

You are hereby commanded, in Her Majesty's name, to attend this Court at [] on [] the [] day of [] at o'clock in the [] noon on the hearing of

a claim [or an application] on the part of A.B., of [merchant],
the above-named plaintiff [state the precise nature and particulars of the
claim, and the amount sought to be recovered, or the precise object of the
application, as the case may be].

(Seal.)

*The following Note is to be added to the original Summons, and when the
time is altered by indorsement, the indorsement is to be referred to as
below :—*

NOTE.—If you do not attend either in person or by counsel or attorney
at the time and place above-mentioned [or at the place above-mentioned
at the time mentioned in the indorsement hereon], such order will be made
and such proceedings taken as the Court may think just and expedient.

4.

Petition.

In Her Britannic Majesty's Consular Court at [].
Between A.B. . Plaintiff,

and
C.D. and } . Defendants.
E.F. }

To X.Y., Esquire, Her Britannic Majesty's Consul at [].
The petition of A.B., of [merchant], the above-named
plaintiff, shows as follows :—

1. [On the 1st day of June 1859, the defendant, &c.]
2. [On the next day the plaintiff wrote and sent a letter to the defendant,
the material parts of which were as follows, &c.]

3.

4.

The plaintiff therefore prays—

1. [That an account may be taken of what is due for principal and
interest on, &c.]

2. [That the defendant may be decreed to pay to the plaintiff the amount
which shall be so found due within one calendar month, &c.]

3. [That the plaintiff may have such further or other relief as the nature
of the case may require.]

The defendants to this petition are—

C.D., of , [merchant],
E.F., of , [widow].

[or A.B.
A.B., the plaintiff,
by L.M., his attorney.]

5.

Answer.

In Her Britannic Majesty's Consular Court at [].
Between A.B. . Plaintiff,

and
C.D. and } . Defendants.
E.F. }

The answer of C.D., one of the above-named defendants, to the petition
of the above-named plaintiff.

In answer to the petition, I, C.D., say as follows :—

1.

2.

3.

[or C.D.
C.D., the defendant,
by N.O., his attorney.]

6.

Notice of Hearing.

In Her Britannic Majesty's Consular Court at []
 [Saturday] the [] day of [], 18 .
 Between A.B. . Plaintiff,
 and
 C.D. and } . Defendants.
 E.F. }

To A.B., the above-named plaintiff,

[or

To C.D., one of the above-named defendants.]

This suit will be set down for hearing on _____ the _____ day of _____ 18____, and will come on to be heard in its turn on that day if the business of the Court permits.

(Seal.)

7.

Motion paper.

In Her Britannic Majesty's Consular Court at [].
Between A.B. . . Plaintiff,
and
C.D. . . Defendant.

The plaintiff [or as the case may be] moves that [here state the terms of the motion].

II.—Probate and Administration.

8.

Affidavit of Attesting Witness in Proof of the due Execution of a Will or Codicil dated after 31st December, 1837.

In Her Britannic Majesty's Consular Court at []

In the matter of A.B., deceased.

I, C.D., of _____, make oath and say that I am one of the subscribing witnesses to the last will [or codicil, *as the case may be*] of A.B., late of _____ deceased, the said will [or codicil] being now hereto annexed, bearing date _____, and that the testator executed the said will [or codicil] on the day of the date thereof, by signing his name at the foot or end thereon [or in the testimonium clause thereof, or in the attestation clause thereto, *as the case may be*], as the same now appears thereon * in the presence of me and of _____, the other subscribed witness thereto, both of us being present at the same time, and we thereupon attested and subscribed the said will [or codicil] in the presence of the testator.

C.D.

Sworn at _____, this _____
day of _____, 18____, before me, _____
X.Y.

* If the signature is in the testimonium clause or attestation clause, insert "intending the same for his final signature to his will."

9.

Oath of Executor.

In Her Britannic Majesty's Consular Court at []

In the matter of A.B., deceased.

I, C.D., of _____, make oath and say that I believe the paper writing [or the paper writings] hereto annexed and marked by _____

me * to contain the true and original last will [or last will with codicils] of A.B., late of , deceased, and that I am the sole executor [or one of the executors] therein named [or executor according to the tenor thereof, executor during life, executrix during widowhood, or as the case may be], and that I will faithfully administer the personal property of the testator by paying his just debts and the legacies given by his will [or will and codicils], so far as his personal property shall extend and the law bind me; that I will exhibit an inventory and render an account of my executorship, whenever lawfully required; that the testator died at , on the day of , 18 ; that at the time of his death he had his fixed place of abode at , within the jurisdiction of this Court, and that the whole of his personal property does not amount in value to the sum of pounds, to the best of my knowledge, information, and belief.

C.D.

Sworn at , this
day of , 18 , before me, }
E.F.

* Each testamentary paper is to be marked by the persons sworn and the person administering the oath.

Where more executors than one are appointed, and all are not sworn, a memorandum should be made in the margin of the oath that power is to be reserved to the other executors or executor, or that they have or he has renounced.

10.

Oath for Administrator with Will annexed.

In Her Britannic Majesty's Consular Court at [].

In the matter of A.B., deceased.

I, C.D., of , make oath and say that I believe the paper writing [or the paper writings] hereto annexed, and marked by me * to contain the true and original last will [or last will with codicils] of A.B., late of , deceased; that the executor therein named is dead without having taken probate thereof [or as the case may be]; that I am the residuary legatee in trust named therein [or as the fact may be]: that I will faithfully administer the personal property of the testator, by paying his just debts and the legacies given by his will [or will and codicils], so far as his personal property shall extend and the law bind me, and distributing the residue of his personal property according to law, that I will exhibit an inventory and render an account of my administration whenever lawfully required; that the testator died at , on the day of , 18 ; that at the time of his death he had his fixed place of abode at , within the jurisdiction of this Court, and that the whole of his personal property does not amount in value to the sum of pounds, to the best of my knowledge, information, and belief.

C.D.

Sworn at , this
day of , 18 ; before me, }
E.F.

* Each testamentary paper is to be marked by the persons sworn and the person administering the oath.

11.

Oath for Administrator (not with Will annexed).

In Her Britannic Majesty's Consular Court at [].

In the matter of A.B., deceased.

I, C.D., of , make oath and say that A.B., late of , deceased, died intestate, a bachelor, without parent, brother or sister,

uncle or aunt, nephew or niece, and that I am his lawful cousin german and one of his next of kin [*this must be altered in accordance with the circumstances of the case*]; that I will faithfully administer the personal property of the deceased, by paying his just debts, and distributing the residue of his property according to law; that I will exhibit an inventory and render an account of my administration whenever lawfully required; that the deceased died at _____, on the _____ day of _____, 18____; that at the time of his death he had his fixed place of abode at _____, within the jurisdiction of this Court; and that the whole of his personal property does not amount in value to the sum of _____ pounds, to the best of my knowledge, information, and belief.

C.D.

Sworn at _____, this _____ day of _____, 18____, before me, }
E.F.

12.

Probate.

In Her Britannic Majesty's Consular Court at [_____].

Be it known that, on the _____ day of _____, 18____, the last will [or the last will with codicils] (a copy whereof is hereto annexed) of A.B., late of _____, deceased, who died on _____ at _____, and who at the time of his death had his fixed place of abode at _____, within the jurisdiction of this Court, was proved and registered in this Court; and that the administration of the personal property of the said deceased was granted by this Court to C.D., the sole executor [or as the case may be] named in the said will, he having been first duly sworn.

To be }
written }
in }
margin. }
Sworn under £ }
and that the testator }
died on or about the }
day of _____, 18____.

X.Y.,
H.M.B. Consul at [_____].
(Seal.)

13.

Letters of Administration (with Will annexed).

In Her Britannic Majesty's Consular Court at [_____].

Be it known that A.B., late of _____, deceased, who died on the _____ day of _____, at _____, and who had at the time of his death his fixed place of abode at _____, within the jurisdiction of this Court, made and duly executed his last will [or his last will with codicils thereto], and did therein named [according to the facts].

Sworn under £ }
and that the testator }
died on or about the }
day of _____, 18____.

And be it further known, that on the _____ day of _____, 18____, letters of administration with the said will [and codicils] annexed of the personal property of the deceased were granted by this Court to C.D. [insert the character in which the grant is taken], he having been first duly sworn.

X.Y.,
H.B.M. Consul at [_____].
(Seal.)

14.

Letters of Administration (not with Will annexed).

In Her Britannic Majesty's Consular Court at [].

Sworn under £
and that the intestate died
on or about the day
of , 18 ,

Be it known that on the day of administration of the personal property of A.B., late of letters of , deceased, who died on 18 , at 18 , at intestate, and who had at the time of his death his fixed place of abode at the jurisdiction of this Court, were granted by this Court to C.D., of the widow [or as the case may be] of the said intestate, she having been first duly sworn.

X.Y.
H.B.M. Consul at [].
(Seal.)

15.

Double Probate.

In Her Britannic Majesty's Consular Court at [].

Sworn under £
and that the testator died
on or about the day
of , 18 ,

Be it known that on the day of 18 , the last will [with codicils] of A.B., late of , deceased, who died on at , and who at the time of his death had his fixed place of abode at , within the jurisdiction of this Court, was proved and registered in this Court, and that administration of his personal property, and any way concerning his will, was granted by this Court to C.D., one of the executors named in the said will [or codicil], he having been first duly sworn, power being reserved of making the like grant to E.F., the other executor named in the said will. And be it further known, that on the day of 18 , * the said will of the said deceased was also proved in this Court, and that the like administration was granted by this Court to the said E.F., he having been first duly sworn.

X.Y.,
H.B.M. Consul at [].
(Seal.)

* Former grant, January 18 , under the same sum.

16.

Letters of Administration de Bonis non.

In Her Britannic Majesty's Consular Court at [].

Be it known that A.B., late of , deceased, died on 18 , at , intestate, and had at the time of his death his fixed place of abode at

Sworn under £
and that the intestate died
on the _____ day of _____, 18__.

_____ , within the jurisdiction of this Court, and that since his death, namely, on the _____ day of _____, 18__ , letters of administration of his personal property were granted by this Court to C.D. [insert the relationship or character of administrator] (which letters of administration now remain on record in this Court), who, after taking such administration upon him, partly administered the personal property of the deceased, and afterwards, namely, on _____ , died, leaving part thereof unadministered, and that on the _____ day of _____, 18__ , letters of administration of the personal property so left unadministered were granted by this Court to _____ , he having been first duly sworn.

X.Y.,
H.B.M. Consul at [_____]
(Seal.)

17.

Administration Bond.

Know all men by these presents, that we, A.B., of _____, C.D., of _____, and E.F., of _____, are jointly and severally bound unto G.H., Her Britannic Majesty's Consul-General for Persia, in the sum of _____ pounds sterling, to be paid to the said G.H., or the Consul-General for the time being ; for which payment we bind ourselves and each of us, for the whole, our and each of our heirs, executors, and administrators, firmly by these presents. Sealed with our seals. Dated the _____ day of _____, 18__.

A.B. : (L.S.)
C.D. (L.S.)
E.F. (L.S.)

The condition of the above-written obligation is such that, if the above named A.B., the intended administrator of the personal property of I.J., late of _____, deceased, who died on the _____ day of _____, [left unadministered by _____], do make a true and perfect inventory of the personal property of the deceased [so left unadministered] which has or shall come into [his] possession, or into the possession of any person for [him], and the same so made do exhibit unto Her Majesty's Consul-General, whenever required by law so to do ; and the same personal property, and all other the personal property of the deceased, which shall at any time after the making and exhibition of such inventory, come into the possession of the said A.B., or of any person for [him], do well and truly administer according to law ; (that is to say), do pay the debts which the deceased owed at [his] death, and all the residue of the said personal property do deliver and pay to such person or persons as shall be entitled thereto under the Act of Parliament intituled *An Act for the better settling of Intestates' Estates* * ; and further do make a true and just account of [his] administration whenever lawfully required ; and in case it shall hereafter appear that any will was made by the deceased, and the executor or executors therein named do exhibit the same for probate, then if the said A.B., being thereunto required, do duly render and deliver up the letters of administration granted to him, then this obligation shall be void, and otherwise shall remain in full force.

Signed, sealed, and delivered before this Court.

(Seal.)

18.

Administration Bond for Administrator with Will annexed.

Know all men by these presents, that we, A.B., of _____, C.D., of _____, and E.F., of _____, are jointly

* The Statute of Distributions (22 & 23 Chas. II. c. 10).

and severally bound unto *G.H.*, Her Majesty's Consul-General, in the sum of _____ pounds sterling, to be paid to the said *G.H.*, or the Judge of the said Court for the time being, for which payment we bind ourselves and each of us, for the whole, our and each of our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals. Dated the _____ day of 18 .

A.B. (L.S.)
C.D. (L.S.)
E.F. (L.S.)

The condition of the above-written obligation is such that if the above-named *A.B.*, the intended administrator, with will annexed, of the personal property of *I.J.*, late of _____, deceased, who died on the _____ day of _____, do make a true and perfect inventory of the personal property of the deceased [left unadministered by _____] which has or shall come into [his] possession, or into the possession of any person for [him], and the same so made do exhibit under Her Majesty's Consul-General, whenever required by law so to do, and the same personal property [so left unadministered] and all other the personal property of the deceased which shall at any time after the making and exhibition of such inventory come into the possession of the said *A.B.*, or of any person for [him], do well and truly administer (that is to say), do pay the debts which the deceased owed at [his] death, and then the legacies given by the said will annexed to the said letters of administration as far as such personal property will extend, and the law bind [him], and all the residue of the said personal property do deliver and pay unto such person or persons as shall be by law entitled thereto, and further, do make a true and just account of [his] said administration whenever lawfully required, then this obligation shall be void, and otherwise shall remain in full force.

Signed, sealed, and delivered before this Court.

(Seal.)

19.

Declaration of the Personal Property of a Testator or an Intestate.

In Her Britannic Majesty's Consular Court at [_____].

A true declaration of all the personal property of *A.B.*, late of _____ deceased, who died on the _____ day of _____, at _____, and had at the time of his death his fixed place of abode at _____, within the jurisdiction of this Court, which have at any time since his death come to the possession or knowledge of *C.D.*, the administrator with the will annexed of the said *A.B.* [or administrator, *as the case may be*], made and exhibited upon and by virtue of the oath [or solemn affirmation] of the said *C.D.*, as follows:—

£ s. d.

First, I declare that the deceased was at the time of his death possessed of or entitled to _____.

[*The details of the deceased's property must be here inserted, and the value inserted opposite to each particular.*]

Lastly, I say that no personal property of the deceased has at any time since his death come to my possession or knowledge, save as is hereinbefore set forth.

On the _____ day of _____, 18 , the said *C.D.* was duly sworn to [or solemnly affirmed] the truth of the above-written inventory.

Before me,
 [Person authorised to administer oaths.]

20.

Justification of Sureties.

In Her Britannic Majesty's Consular Court at []
In the matter of A.B., deceased.

We, *C.D.*, of _____, and *E.F.*, of _____, severally make oath and say, that we are the proposed sureties in the penal sum of _____ pounds on behalf of *G.H.*, the intended administrator of the personal property of *A.B.*, late of _____, deceased, for his faithful administration thereof; and I, the said *C.D.*, for myself, make oath and say, that I am, after payment of all my just debts, well and truly worth in money and effects the sum of _____; and I, the said *E.F.*, for myself, make oath and say, that I am, after payment of all my just debts, well and truly worth in money and effects the sum of _____ pounds.

C.D.

E.F.

Sworn by the deponents, *C.D.* and *E.F.*, at _____, this
day of _____ 18 .

Before me, X.Y.

21.

Renunciation of Probate and Administration with Will annexed.

In Her Britannic Majesty's Consular Court at []
In the matter of A.B., deceased.

Whereas *A.B.*, late of _____, deceased, died on the _____ day of _____, at _____, having had at the time of his death his fixed place of abode at _____, within the jurisdiction of this Court; and whereas he made and duly executed his last will, dated the _____ day of _____ 18____, * and thereof appointed *C.D.* executor and residuary legatee in trust [or as the case may be]:

Now I, the said *C.D.*, do hereby declare that I have not intermeddled in the personal property of the deceased, and will not hereafter intermeddle therein, with intent to defraud creditors, or any person interested in the administration or distribution of the property of the deceased, and further do hereby expressly renounce all right to probate of the said will [and codicils, *if any*], and to administration with the said will [and codicils, *if any*], annexed, of the personal property of the deceased.

In witness whereof I have hereto set my hand and seal this
day of 18 .

C.D. (L.S.)

Signed, sealed, and delivered by the above-named *C.D.* in the presence of _____

G.H.

- If there are codicils, their dates should be also inserted.

22.

Renunciation of Administration.

In Her Britannic Majesty's Consular Court at []

Whereas A.B., late of _____, deceased, died on the _____ day of _____ 18____, at _____, intestate, a widower, having had at the time of his death his fixed place of abode at _____, within the jurisdiction of this Court; and whereas I, C.D., of _____, am his lawful child, and his only next of kin *[or as the case may be]*:

Now I, the said *C.D.*, do hereby declare that I have not intermeddled in the personal property of the deceased, and further do hereby expressly renounce all right to administration thereof.

In witness whereof I have hereto set my hand and seal this day of 18 .

C.D. (L.S.)

Signed, sealed, and delivered by the said *C.D.* in the presence of

G.H.

23.

Order to a Person to bring in a Paper purporting to be testamentary.

In Her Britannic Majesty's Consular Court at []
The day of 18 .

To *C.D.*, of

Whereas it appears by a certain affidavit filed in this Court on the day of 18 , and made by of , that a certain original paper, being, or purporting to be, testamentary, namely [*here describe the paper*], bearing date the day of , 18 , is now in your possession or under your control:

Now this is to command you, in Her Majesty's name, that within eight days after service hereof on you, inclusive of the day of such service, you do bring into and leave in this Court the said original paper, or in case the said original paper be not in your possession or under your control, that you, within eight days after the service hereof on you, inclusive of the day of such service, do file in this Court an affidavit to that effect, and therein set forth what knowledge you have of and respecting the said paper.

(Seal.)

24.

Affidavit of Handwriting.

In Her Britannic Majesty's Consular Court at []
In the matter of *C.D.*, deceased.

I, *A.B.*, of , make oath and say, I knew and was well acquainted with *C.D.*, late of , deceased, who died on the day of , at , for many years before and down to his death, and that during that time I have frequently seen him write and sign his name, whereby I have become well acquainted with his handwriting and signature, and having now with care and attention inspected the paper writing hereto annexed, purporting to be the last will of the said *C.D.*, beginning thus , ending thus , dated the day of , and signed thus, *C.D.*, I say that I believe [the whole body and contents of the said will, together with] the signature *C.D.* thereto, to be of the handwriting of the said *C.D.*, deceased.

A.B.

Sworn at , this
day of , 18 , before me, }
E.F.

25.

Affidavit of Finding and Condition of Will.

In Her Britannic Majesty's Consular Court at []
In the matter of *E.F.*, deceased.

I, *A.B.*, of , make oath and say, that I am the sole executor named in the paper writing hereto annexed, purporting to be the

last will of *E.F.*, late of _____, deceased (who died on the _____ day of _____, and had at his death his fixed place of abode at _____, within the jurisdiction of this Court), the said will bearing date the _____ day of _____, beginning thus _____, ending thus _____, and being signed thus, *E.F.*, and that [here describe the finding of the will and the various obliterations, interlineations, erasures, and alterations (if any), and the general condition of the will, and state any other matters requiring to be accounted for, and clearly trace the will from the possession of the deceased in his lifetime up to the time of the making of this affidavit]; and I lastly say that the same paper writing is now in all respects in the same condition as when found [or as the case may be].

A.B.

Sworn at _____, this _____ day of _____, 18____, before me, }
I.J.

26.

*Affidavit of Search.**

In Her Britannic Majesty's Consular Court at [_____]].
In the matter of *C.D.*, deceased.
I, *A.B.*, of _____ make oath and say that I am the sole executor named in the paper writing hereto annexed, purporting to be the last will of *C.D.*, late of _____, deceased (who died on the _____ day of _____, 18____, at _____, and had at the time of his death his fixed place of abode at _____, within the jurisdiction of this Court), the said will beginning thus _____, ending thus _____, and being signed thus, *C.D.* And referring particularly to the fact that the blank spaces originally left in the said will for the insertion of the day and the month of the date thereof have never been supplied [or that the said will is without date, or as the case may be], I further say that I have made inquiry of [*E.F.*, the attorney of the said deceased], and that I have also made diligent and careful search in all places where the said deceased usually kept his papers of moment, in order to ascertain whether he had or had not left any other will, but that I have been unable to discover any other will. And I lastly say that I believe the deceased died without having left any will, codicil, or testamentary paper whatever other than the said will by me herein before deposed to.

A.B.

Sworn at _____, this _____ day of _____, 18____, before me, }
G.H.

* This form of affidavit is to be used when it is shown by affidavit that neither the subscribing witnesses nor any other person can depose to the precise time of the execution of the will.

27.

Notice to Prohibit Grant of Probate or Administration.

In Her Britannic Majesty's Consular Court at [_____]].
In the matter of *A.B.*, deceased.
Let nothing be done in the matter of *A.B.*, late of _____, deceased, who died on the _____ day of _____, at _____, and had at the time of his death his fixed place of abode at _____, within the jurisdiction of this Court, without warning being given to *C.D.*, of _____, [or to *E.F.*, of _____, the attorney of *G.H.*, of _____].
Dated this _____ day of _____, 18____.
(Signed) _____, *C.D.*, of _____,
[or *E.F.*, of _____, the attorney of *G.H.*, of _____].

28.

Warning to Persons filing Notice to Prohibit Grant.

In Her Britannic Majesty's Consular Court at [].
 In the matter of A.B., late of , deceased.
 To C.D., of , [or to E.F., of , attorney of G.H., of].

You are hereby warned, within six days after the service of this warning upon you, inclusive of the day of such service, to come to this Court, and to file therein an affidavit setting forth your [or your client's] interest in this matter; and in default of your so doing this Court will proceed to all such acts and things as shall be needful to be done in this matter.

NOTE.—This warning is issued at the instance of R.S., of [here state what interest R.S. has, and if under a will or codicil, state its date].

(Seal.)

29.

List of Probates and Administrations.

Her Britannic Majesty's Consular Court at [].
 The [1st] day of [August], 18[].

List of Probates and Administrations granted by this Court up to the 1st day of July 18 , and not included in any previous List.

Date of Grant.	Name in full of Deceased.	His or her Business, Profession, or other Description.	Place of his or her Death.	Time of his or her Death.	Name and Description of each Executor or Administrator taking Probate or Administration.	Value of the Personal Property.

(Signed)

X.Y.,
 H.B.M. Consul at []

(Seal.)

30.

Summons to Administrator or Executor for Summary Administration.

In Her Britannic Majesty's Consular Court at [].
 [Saturday], the [] day of [], 18 .
 In the matter of property of A.B., late of , deceased.

Between C.D. Plaintiff,
 and Defendant.

To E.F., of , the above-named defendant, executor of the above-named A.B.

On the application of C.D., of Esq., the above-named plaintiff, who claims to be a creditor of the said A.B.:

You are hereby commanded, in Her Majesty's name, to attend this

Court , on [] the [] day of [] at [] o'clock in the [] noon, and show cause, if you can, why an order for the administration of the property of the said A.B., under the direction of this Court, should not be granted.

(Seal.)

The following note is to be added to the original summons, and when the time is altered by indorsement, the indorsement is to be referred to as below :—

NOTE.—If you do not attend either in person or by counsel or attorney at the time and place above-mentioned [or at the place above-mentioned at the time mentioned in the indorsement hereon], such order will be made and such proceedings taken as the Court may think just and expedient.

III.—Criminal.

31.

Information to ground Search Warrant.

In Her Britannic Majesty's Consular Court at [] .
[*Thursday*], the day of , 18 .
C.D., of , labourer, being first duly sworn, complains that on the day of , the following goods and chattels of the value of namely :—

[*Here describe the goods and chattels.*]

were stolen and unlawfully carried away from and out of at , by some person or persons unknown, and that he has reasonable cause to suspect, and does suspect, that those goods and chattels, or some of them, are concealed in ; for he, the said C.D., on his oath, deposes and says that

Taken and sworn before me this day of , 18 , }
at .

32.

Search Warrant for Stolen Goods.

In Her Britannic Majesty's Consular Court at [] .
[*Thursday*], the day of , 18 .
To X.Y., police officer, and other officers of this Court.
C.D., of , has this day made information on oath before this Court that [*copy from information down to "for he"*].

You are therefore hereby authorised and commanded, in Her Majesty's name, with proper assistance, to enter the of the said A.B., and there diligently search for the said goods and chattels, and if the same, or any thereof, are found on search, to bring the goods and chattels so found, and also the said A.B., before this Court, to be dealt with according to law.

(Seal.)

33.

Charge.

In Her Britannic Majesty's Consular Court at [] .
[*Thursday*], the day of , 18 .
C.D., of [labourer], [being first duly sworn], charges that [&c., state the offence].

(Seal.)

34.

Summons to Accused.

In Her Britannic Majesty's Consular Court at [].
 [Thursday], the day of , 18 .
 To A.B., of , [labourer].

You have this day been charged [on oath] before this Court for that you
 [etc., stating shortly the offence charged].

Therefore you are hereby commanded, in Her Majesty's name, to appear
 before this Court on [Saturday next] the day of , at
 [10 o'clock in the forenoon] at [], to answer to the said charge,
 and to be further dealt with according to law.

(Seal.)

35.

Warrant in first instance for Apprehension of Accused.

In Her Britannic Majesty's Consular Court at [].
 [Thursday], the day of , 18 .
 To X.Y., police officer, and other officers of this Court.

A.B., of , [labourer], has this day been charged [on oath] before
 this Court for that he [etc., stating shortly the offence charged].

Therefore you are hereby commanded, in Her Majesty's name, forth-
 with to apprehend the said A.B., and to bring him before this Court to
 answer to the said charge, and to be further dealt with according to law.

(Seal.)

36.

Warrant for Apprehension of Accused where Summons is disobeyed.

In Her Britannic Majesty's Consular Court at [].
 [Thursday], the day of , 18 .
 To X.Y., police officer, and other officers of this Court.

A.B., of , [labourer], was on the day of ,
 18 , charged [on oath] before this Court for that [etc., as in summons].

And the said A.B. was, by summons of this Court, commanded to appear
 before this Court on [] at [] at [] to answer
 to the said charge, and to be further dealt with according to law.

And (as it has now been proved to this Court) he was duly served with
 the said summons. But he has not appeared according to the said
 summons.

Therefore you are hereby commanded, in Her Majesty's name, forth-
 with to apprehend the said A.B., and to bring him before this Court to
 answer to the said charge, and to be further dealt with according to law.

(Seal.)

37.

Summons of a Witness.

In Her Britannic Majesty's Consular Court at [].
 [Thursday], the day of , 18 .
 To E.F., of , [labourer].

A.B., of , [labourer], has been charged before this Court for
 that [etc., as in the summons or warrant against the accused].

And it appears to this Court that you are likely to give material evidence
 concerning the said charge.

Therefore you are hereby commanded, in Her Majesty's name, to
 appear before this Court on [Saturday next] the [] day of [],
 18 [], at [10 o'clock in the forenoon], at [], to testify what
 you shall know concerning the said charge.

(Seal.)

38.

Warrant where Witness has not obeyed Summons.

In Her Britannic Majesty's Consular Court at []
[*Thursday*], the day of , 18 .
To X. Y., police officer, and other officers of this Court.
A. B., of [], [labourer], has been charged before this Court for
that [*&c.*, as in summons].

And it appearing to the said Court that E. F., of [], [labourer], is
likely to give material evidence concerning the said charge, the said E. F.
was, by summons of this Court, commanded to appear before this Court on
[] at [] at [], to testify what he should know
concerning the said charge.

And (as it has now been proved to this Court) he was duly served with
the said summons.

But he has not appeared according to the said summons, and has not
excused his failure to do so to the satisfaction of this Court.

Therefore you are hereby commanded, in Her Majesty's name, to bring
and have the said E. F. before this Court on [], at [10 o'clock in
the forenoon] at [], to testify what he shall know concerning the
said charge.

(Seal.)

39.

Warrant for Witness in first instance.

In Her Britannic Majesty's Consular Court at []
[*Thursday*], the day of , 18 .
To X. Y., police officer, and other officers of this Court.
A. B., of [], [labourer], has been charged before this Court for
that [*&c.*, as in summons].

And it appears to this Court that E. F., of [], [labourer], is likely
to give material evidence concerning the said charge, and that it is probable
he will not attend to give evidence unless compelled to do so.

Therefore you are hereby commanded, in Her Majesty's name, to bring
and have the said E. F. before this Court on [Saturday next], the
day of , 18 , at [10 o'clock in the forenoon] at [] to
testify what he shall know concerning the said charge.

(Seal.)

40.

*Warrant for Commitment of Witness for refusing to be sworn or to give
Evidence.*

In Her Britannic Majesty's Consular Court at []
[*Thursday*], the day of , 18 .
To X. Y., police officer of this Court, and to the keeper of [Her Britannic
Majesty's Consular] Prison at [].
A. B., of [], [labourer], has been charged before this Court for
that [*&c.*, as in summons].

And E. F., of [], [labourer], now being before this Court to testify
what he knows concerning the said charge in pursuance of a summons
[or warrant] issued by this Court, and being required refuses to take an

oath [or having taken an oath, refuses to answer a certain question now put to him concerning the said charge], and does not excuse his refusal to the satisfaction of this Court.

Therefore you are hereby commanded, in Her Majesty's name, you, the above-named X.Y., to take the said E.F., and convey him safely to the above-named prison, and there deliver him to the keeper thereof, together with this warrant.

And you, the keeper of the said prison, to receive the said E.F. into your custody in the said prison, and to keep him there safely for [seven] days, unless he in the meantime consents to answer duly on oath.

(Seal.)

41.

Warrant committing the Accused for safe Custody during an adjournment of the Hearing, or where the Hearing is not at once proceeded with, or remanding him.

In Her Britannic Majesty's Consular Court at [].
[Thursday], the day of , 18 .

To X.Y., police officer of this Court, and to the keeper of [Her Britannic Majesty's Consular] Prison at [].

A.B., of , [labourer], has been charged before this Court for that [&c., as in summons].

* And the hearing of the said charge is adjourned [or cannot be at once proceeded with], and it is necessary that the said A.B. should in the meantime be kept in safe custody. *

Therefore you are hereby commanded, in Her Majesty's name, you, the above-named X.Y., forthwith to convey the said A.B. to the above-mentioned prison, and there deliver him to the keeper thereof, together with this warrant. And you, the keeper of the said prison, to receive the said A.B. into your custody in the said prison and there safely keep him until the day of instant, and then to have him before this Court at [10 o'clock in the forenoon] of the same day at [] to answer further to the said charge, and to be further dealt with according to law.

(Seal.)

[In cases for indictment substitute for the words between asterisks ** the following :—And it appears to this Court necessary to remand the said A.B.]

42.

Recognisance of Bail on adjournment of Hearing or where Hearing is not at once proceeded with, or instead of Remand on an adjournment of Preliminary Examination, or for surrender for Trial.

In Her Britannic Majesty's Consular Court at [].
[Thursday], the day of , 18 .

We, A.B., of , [labourer], L.M., of , [grocer], and N.O. of , [butcher], come personally before this Court, and severally acknowledge ourselves to owe to our Sovereign Lady the Queen the several sums following, namely, the said A.B., the sum of £ sterling, and the said L.M. and N.O. the sum of £ sterling each, to be levied on our several goods, if the said A.B. fails in the condition hereon indorsed.

A.B.

L.M.

N.O.

(Seal.)

Condition indorsed.

The condition of the within-written recognisance is as follows :—

The within-bounden A.B. has been charged before this Court for that [etc., as in summons].

If, therefore, the said A.B. appears * before this Court on [], at [] o'clock, at [], to answer [further] to the said charge, and to be [further] dealt with according to law, * then the said recognisance shall be void, and otherwise shall remain in full force.

[Where the recognisance is for surrender for trial, substitute for the words between asterisks * *, the following :—] before [], on [], at [] o'clock, at [], and then and there surrender himself into the custody of the keeper of the [] prison there, and plead to such indictment as may be preferred against him for the offence aforesaid, and take his trial thereon, and not depart from the Court without leave.

43.

Notice of Recognisance to be given to Accused and each of his Sureties.

In Her Britannic Majesty's Consular Court at [].

[Thursday], the day of , 18 .

To A.B., [labourer], L.M., of , [grocer], and N.O., of [butcher].

You, A.B., are bound in the sum of £ sterling, and your sureties, L.M. and N.O. in the sum of £ sterling each, that you, A.B., appear before * this Court, on the day of , at [] o'clock, at [], to answer [further] to the charge made against you by C.D., and to be further dealt with according to law ; * and unless you, A.B., do so, the recognisance entered into by you, A.B., L.M., and N.O., will be forthwith levied on your respective goods.

(Seal.)

[Where the recognisance is for surrender for trial, substitute for the words between asterisks * *, words corresponding to the terms of the condition.]

44.

Summary Conviction for a Penalty to be levied by Distress and in default of a sufficient Distress imprisonment ; or for a Penalty and in default of Payment imprisonment.

In Her Britannic Majesty's Consular Court at [].

[Thursday], the day of , 18 .

A.B., of , [labourer], is this day convicted before this Court for that [etc., state the offence and time and place when and where committed].

And this Court adjudges the said A.B. for his said offence to forfeit and pay the sum of £ sterling [state the penalty and also the compensation, if any], to be paid and applied according to , and also to pay to the said C.D. the sum of £ sterling for his costs in this behalf.

And if the said sums be not paid forthwith [or on or before next], then * this Court orders that the same be levied by distress and sale of the goods of the said A.B.

And in default of sufficient distress, * this Court adjudges the said A.B. to be imprisoned in [Her Majesty's Consular] Prison at [], there to be kept to hard labour for the space of [], unless the said sums

and all costs and charges † of the said distress [and † of the commitment and conveyance of the said A.B. to the said prison] be sooner paid.

(Seal.)

[Where the issuing of a distress warrant would be ruinous to the person convicted and his family, or it appears that he has no goods whereon a distress could be levied, then substitute for the words between the asterisks** the following :—] inasmuch as it has now been made to appear to this Court that the issuing of a warrant of distress would be ruinous to the said A.B. and his family [or that the said A.B. has no goods whereon the said sums can be levied by distress].

[Where the conviction is for a penalty, and in default of payment, imprisonment, omit the words between the asterisks **, and also the words between the marks † †.]

45.

Warrant of Distress upon Conviction as that last mentioned, or where the Person convicted is to pay Costs but no Penalty.

In Her Britannic Majesty's Consular Court at [].
[Thursday], the day of , 18 .

To X.Y., police officer of this Court.

A.B., of , [labourer], stands convicted before this Court by a conviction dated the day of , for that [&c., as in conviction].

And it is and by the said conviction adjudged that the said A.B., should * for his said offence, forfeit and pay [&c. as in conviction], and should also * pay to the said C.D. the sum of £ sterling for his costs in that behalf.

And that if the same should not be paid forthwith [or on or before the day of], the same should be levied by distress and sale of the goods of the said A.B.

And the said A.B., although required to pay the same according to the said conviction, has not paid the same.

Therefore you are hereby commanded, in Her Majesty's name, that you forthwith make distress of the goods of the said A.B., and if within the space of days next after the making of such distress, the said sums, together with the reasonable charges of the making and keeping of the said distress, be not paid, then that you sell the said goods by you distrained, and pay the money arising thereby into this Court, in order that it may be applied according to law, and that the overplus, if any, may be rendered on demand to the said A.B., and if no such distress can be found then you certify the same to this Court in order that further proceedings may be had according to law.

(Seal.)

[Where the person convicted is to pay costs, but no penalty, omit the words between asterisks **, and for the word "sums" marked † read "sum."]

46.

Warrant (on a Conviction for a Penalty) for Commitment of a Person convicted in the first instance without previous Warrant of Distress.

In Her Britannic Majesty's Consular Court at [].
[Thursday], the day of , 18 .

To X.Y., police officer of this Court, and to the keeper of []
Prison at [].

A.B., of _____, [labourer], stands convicted before this Court by a conviction dated the _____ day of _____, for that [&c., as in conviction].

And it is in and by the said conviction adjudged that the said A.B. should, * for his said offence, forfeit and pay [&c., as in conviction], and should also * pay to the said C.D. the sum of £ _____ sterling for his costs in that behalf.

And that if the said sums should not be paid forthwith [or on or before the _____ day of _____], the said A.B. should be imprisoned in the above-mentioned prison [and be there kept to hard labour], unless the same [and the costs and charges of the conveying of the said A.B. to the said prison] should be sooner paid.

And the said A.B., being required to pay the said sums according to the said conviction, has not done so.

Therefore you are hereby commanded, in Her Majesty's name, you, the above-named X.Y., to take the said A.B., and convey him to the said prison, and there deliver him to the keeper thereof, together with this warrant ; and you, the said keeper of the said prison, to receive the said A.B. into your custody in the said prison, and there to imprison him [and keep him to hard labour] for the space of [_____], unless the said several sums [and the costs and charges of the conveying of him to the said prison, amounting to the further sum of £ _____] be sooner paid.

(Seal.)

47.

Officer's Return, if no sufficient Distress, to be indorsed on Warrant.

In Her Britannic Majesty's Consular Court at [_____]
[Thursday], the _____ day of _____, 18 _____
I, X.Y., of _____, police officer of this Court, do hereby certify to this Court that, by virtue of the within-written warrant, I have made diligent search for the goods of the within-named A.B., and that I can find no sufficient goods of the said A.B. whereon the sums within-mentioned can be levied.

X.Y.

48.

Warrant of Commitment for Want of Distress.

In Her Britannic Majesty's Consular Court at [_____]
[Thursday], the _____ day of _____, 18 _____
To X.Y., police officer of this Court, and to the keeper of [_____] Prison at [_____].
[Proceed as in warrant of distress (Form 45) down to the commencement of the commanding part, and then thus :—]
And on the _____ day of _____, 18 _____, this Court issued a warrant to you, the above-named X.Y., commanding you to levy the said sum of £ _____ and £ _____ [or the said sum of £ _____ for costs] by distress and sale of the goods of the said A.B.

And it now appears to this Court, as well by the return of you, the said X.Y., to the said warrant, as otherwise, that you have made diligent search for the goods of the said A.B., but that no sufficient distress whereon the said sums could be levied could be found,

Therefore you are hereby commanded, in Her Majesty's name, you, the said X.Y., to take the said A.B., and convey him safely to the above-mentioned prison, and there deliver him to the keeper thereof, together with this warrant, and you the said keeper of the said prison, to receive the said A.B. into your custody in the said prison, and there to imprison him [and keep him to hard labour] for the space of [], unless the said sums [or sum] and all the costs and charges of the said distress [and of the commitment and conveying to the said prison of the said A.B.], amounting to the further sum of £ be sooner paid.

(Seal.)

49.

Summary Conviction where the Punishment is Imprisonment and no Penalty.

In Her Britannic Majesty's Consular Court at []
[Thursday], the day of 18 .
A.B., [labourer], is this day convicted before this Court for that [etc., state the offence and the time and place when and where committed].

And this Court adjudges the said A.B., for his said offence, to be imprisoned in [Her Majesty's Consular] Prison at [], there to be kept to hard labour for the space of [].

And this Court also adjudges the said A.B. to pay to the said C.D., the sum of £ sterling for his costs in this behalf.

And if the same be not paid forthwith [or on or before next], then * this Court orders that the same be levied by distress and sale of the goods of the said A.B.

And in default of sufficient distress * this Court adjudges the said A.B. to be imprisoned in the said prison [to be there kept to hard labour] for the space of [], to commence at and from the termination of his imprisonment aforesaid, unless the said sum for costs be sooner paid.

(Seal.)

[Where the issuing of a distress warrant would be ruinous to the person convicted and his family, or it appears that he has no goods whereon a distress could be levied, then substitute for the words between the asterisks * * the following :—]

Inasmuch as it has now been made to appear to this Court that the issuing of a warrant of distress in this behalf would be ruinous to the said A.B. and his family [or that the said A.B. has no goods whereon the said sum could be levied by distress].

50.

Warrant of Commitment on a Conviction as that last mentioned.

In Her Britannic Majesty's Consular Court at []
[Thursday], the day of 18 .
To X.Y., police officer of this Court, and to the keeper of [] Prison at []
A.B., of [], [labourer], stands convicted before this Court by a conviction dated the day of [], for that [etc., as in conviction].

And it is in and by the said conviction adjudged that the said A.B. for his said offence should be imprisoned in the [] prison at

[] and there be kept to hard labour for the space of

Therefore you are hereby commanded, in Her Majesty's name, you, the above-named *X.Y.*, to take the said *A.B.* and convey him to the said prison, and there deliver him to the keeper thereof, together with this warrant; and you, the said keeper of the said prison, to receive the said *A.B.* into your custody in the said prison, and to imprison him [and keep him to hard labour] for the space of [].

(Seal.)

51.

Order of Dismissal of Charge.

In Her Britannic Majesty's Consular Court at [].
[*Thursday*], the day of , 18 .
A.B., of , [labourer], was on the day of
charged before this Court for that [*&c.*, as in summons or
warrant].

And now both the said parties appear before this Court in order that it may hear and determine the said charge [or the said *A.B.* appears before this Court, but the said *C.D.*, although duly called, does not appear].

Whereupon, the matter of the said charge being by this Court duly considered,* it manifestly appears to this Court that the said charge is not proved, and * this Court dismisses the same.

And adjudges that the said *C.D.* do pay to the said *A.B.* the sum of £ sterling for his costs in this behalf, and if the same be not paid forthwith [or on or before], this Court orders that the same be levied by distress and sale of the goods of the said *C.D.*, and in default of sufficient distress, this Court adjudges the said *C.D.* to be imprisoned in [] prison at [], [and there kept to hard labour], unless the same sum and all costs and charges of the said distress [and of the commitment and conveying to the said prison of the said *C.D.*] be sooner paid.

(Seal.)

[Where the person making the charge does not appear at the hearing, the words between asterisks * * may be omitted.]

52.

Certificate of Dismissal of Charge to be given to Accused.

In Her Britannic Majesty's Consular Court at [].
[*Thursday*], the day of , 18 .
This is to certify that a charge made on the [] day of
[], by *C.D.*, of , [labourer], against *A.B.*,
of , [labourer], for that [*&c.*, as in summons or warrant]
is now considered by this Court, and is by this Court dismissed [with costs].
(Seal.)

53.

Warrant of Distress for Costs to be paid by the Person making the Charge, on an Order for Dismissal of the Charge.

In Her Britannic Majesty's Consular Court at [].
[*Thursday*], the day of , 18 .
To *X.Y.*, police officer of this Court.
A.B., of , [labourer], was on the day of
, 18 , charged before this Court for that [*&c.*, as in summons
or warrant].

And afterwards, namely, on the day of 18 , both parties appeared before this Court in order that it should hear and determine the said charge [or the said A.B. appeared before this Court, but the said C.D., although duly called, did not appear], and thereupon the matter of the said charge being duly considered by this Court,* and it manifestly appearing to this Court that the said charge was not proved,* this Court did dismiss the same, and adjudged that the said C.D. should pay to the said A.B. the sum of £ sterling for his costs in that behalf, and that if the said sum should not be paid forthwith, [or on or before], then the same should be levied by distress and sale of the goods of the said C.D.

And the said C.D., although required to pay the same according to the said order, has not paid the same.

Therefore you are hereby commanded—

[Proceed as in the commanding part of the Form of Warrant of Distress upon Conviction, where the person convicted is to pay costs but not penalty, only substituting the name of C.D., the prosecutor, for the name of A.B., the accused, and for the word "sums," at the mark,† read "sum."

(Seal.)

54.

Warrant of Commitment for want of Distress in the last Case.

In Her Britannic Majesty's Consular Court at [].
[Thursday], the day of , 18 .
To X.Y., police officer of this Court, and to the keeper of []
Prison at [].

[Proceed as in the last form down to the commencement of the commanding part, and then thus:—]

And on the day of , 18 , this Court issued a warrant to you, the above-named X.Y. [proceed as in Form 48, only substituting the name of C.D., the prosecutor, for the name of A.B., the accused].

(Seal.)

55.

Depositions of Witnesses on Preliminary Examination before Indictment.

In Her Britannic Majesty's Consular Court at [].
[Thursday], the day of , 18 .
A.B., of , [labourer], stands charged before this Court
for that he [&c., as in summons].

And in the presence and hearing of the said A.B., C.D. of ,
[labourer], and E.F., of , [labourer], depose on oath as
follows :

First, the said C.D. says as follows :

[State the deposition of the witness as nearly as possible in the very words he uses. When his deposition is complete let him sign it.]

Secondly, the said E.F. says as follows :

[State his deposition in same manner.]

(Seal.)

56.

Statement of the Accused on Preliminary Examination.

In Her Britannic Majesty's Consular Court at [].
[Thursday], the day of , 18 .
A.B., of , [labourer], stands charged before this Court
for that [&c., as in summons].

And the said charge having been read to the said A.B., C.D., and E.F., witnesses for the prosecution, having been severally examined in his presence and hearing, and their respective depositions having been read over to the said A.B., these words are now said to the said A.B. by this Court, namely:—

Having heard the evidence, do you wish to say anything in answer to the charge? You need not say anything unless you wish. You have nothing to hope from any promise of favour, and nothing to fear from any threat held out to you to induce you to make any admission or confession. Whatever you say will be written down, and may be given in evidence against you.

Whereupon the said A.B. says as follows:

[State whatever the accused says, and as nearly as possible in the very words he uses. Get him to sign the statement if he will.]

[A.B.]
(Seal.)

57.

Recognisance to Prosecute or give Evidence.

In Her Britannic Majesty's Consular Court at []
[Thursday], the day of [], 18
C.D., of [labourer], comes personally before this Court, and acknowledges himself to owe to our Sovereign Lady the Queen the sum of £ [] sterling, to be levied on his goods if he fails in the condition herein indorsed.

(Signed) C.D.
(Seal.)

Condition indorsed

The condition of the within-written recognisance is as follows —

A.B., of [labourer], has been charged before this Court for that [etc., as in summons].

If, therefore, the within-named C.D. appears before this Court on [] at [], * and then and there prefers an indictment against the said A.B. for the said offence, and duly prosecutes the same [and gives evidence thereon], * then the said recognisance shall be void, and otherwise shall remain in full force.

[Where the recognisance is only to give evidence, substitute for the words between the asterisks ** the following:—], and then and there gives evidence on an indictment, to be then and there preferred against the said A.B. for the said offence.

58.

Notice of Recognisance to be given to Prosecutor and each of his Witnesses.

In Her Britannic Majesty's Consular Court at []
[Thursday], the day of [], 18
To C.D., of [labourer],
You are bound in the sum of £ [] sterling to appear before this Court on [] at [], and then and there to prosecute and give evidence against [or to prosecute or to give evidence against] A.B., of [labourer], and unless you do so, the recognisance entered into by you will be forthwith levied on your goods.
(Seal.)

59.

Commitment of Witness for refusing to enter into Recognisance.

In Her Britannic Majesty's Consular Court at [].
 [Thursday], the day of , 18 .
 To X.Y., police officer of this Court, and to the keeper of [Her Britannic
 Majesty's Consular] Prison at [].
 A.B., of , [labourer], has been charged before this Court
 for that [etc., as in summons].

And E.F., of , [labourer], having been now examined
 before this Court concerning the said charge, and being required, refuses
 to enter into a recognisance to give evidence against the said A.B.

Therefore you are hereby commanded, in Her Majesty's name, you, the
 above-named X.Y., to take the said E.F., and convey him safely to the
 above-named prison, and there deliver him to the keeper thereof, together
 with this warrant.

And you, the keeper of the said prison, to receive the said E.F. into
 your custody in the said prison, and to keep him there safely until after
 the trial of the said A.B. for the said offence, unless the said E.F. in the
 meantime consents to enter into such recognisance as aforesaid.

(Seal.)

60.

Warrant of Commitment of Accused for Trial.

In Her Britannic Majesty's Consular Court at [].
 [Thursday], the day of , 18 .
 To X.Y., police officer of this Court, and to the keeper of [Her Britannic
 Majesty's Consular] Prison at [].
 A.B. stands charged before this Court on the oath of C.D., of
 , [labourer], and others for that [etc., as in summons].

Therefore you are hereby commanded, in Her Majesty's name, you, the
 above-mentioned X.Y., to convey the said A.B. to the above-mentioned
 prison, and there to deliver him to the keeper thereof, together with this
 warrant, and you, the said keeper of the said prison, to receive the said
 A.B. into your custody in the said prison, and there safely keep him until
 he shall be thence delivered by due course of law.

(Seal.)

The Second Schedule.—Fees.

[This Schedule was repealed by the Order of 1898, printed at p. 688 below.]

THE PERSIAN COAST AND ISLANDS ORDER IN COUNCIL, 1889,
AS AMENDED BY THE PERSIAN COAST AND ISLANDS ORDER
IN COUNCIL, 1895.*

At the Court at Windsor, the 13th day of December, 1889.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.
Earl of Coventry.
Lord Morris.

Sir William Hart Dyke, Bart.
Mr. Ritchie.

Whereas by treaty, grant, usage, sufferance, and other lawful means, Her Majesty the Queen has power and jurisdiction in relation to Her Majesty's subjects, and others, in that portion of the coast and islands of the Persian Gulf and Gulf of Oman which is within the dominions of His Majesty the Shah of Persia :

Now, therefore, Her Majesty, by virtue and in exercise of the powers in this behalf by the Foreign Jurisdiction Acts, 1843 to 1878,† or otherwise, in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

PART I.—*Preliminary.*

1. This Order may be cited as "The Persian Coast and Islands Order in Council, 1889."

2. This Order is divided into parts, as follows :—

Part I.—Preliminary.

Part II.—Application and effect of Order.

Part III.—Application of certain portions of the law of
British India.

Part IV.—Criminal matters.

Part V.—Civil matters.

Part VI.—Vice-Admiralty.

Part VII.—Persian and Foreign subjects and tribunals.

Part VIII.—Registration of British subjects.

Part IX.—Procedure.

Part X.—Supplemental provisions.

3. In this Order—

(1.) "Persian coasts and islands," or the expression "the limits of this Order," means the coast and islands of the Persian Gulf and Gulf of Oman, being within the dominions of His Majesty the Shah of Persia, and includes the territorial waters of Persia adjacent to the said coast and islands :

* The amending Order of 1895 is printed at length in Statutory Rules and Orders, 1895, p. 271. The Order of 1889 was further amended by The Persia (Regulations) Order in Council, 1901, printed at p. 689 below.

† 6 & 7 Vict. c. 94 ; 29 & 30 Vict. c. 87 ; 38 & 39 Vict. c. 85 ; 41 & 42 Vict. c. 67, now repealed and consolidated by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

- "Inland Persia" means the territories and dominions of the Shah of Persia, so far as not included within the limits of this Order :
- (2.) "Secretary of State" means one of Her Majesty's Principal Secretaries of State :
 - (3.) "Consul-General" means the person for the time being holding the office of Her Majesty's Consul-General for Fars and the coasts and islands of the Persian Gulf, being within the dominions of Persia, and of Political Resident in the Persian Gulf, and includes a person acting temporarily with the approval of the Governor-General of India in Council as, or for, the Political Resident in the Persian Gulf :
 - (4.) "Judicial assistant" means an officer appointed by the Secretary of State, or, with his previous or subsequent assent, by the Governor-General of India in Council to be a Judicial Assistant to the Consul-General, and includes an officer acting temporarily by order of the Consul-General as, or for, a Judicial Assistant :
 - (5.) "British subject" means a subject of Her Majesty, by birth or by naturalisation :
 - (6.) "British-protected person" means a person enjoying Her Majesty's protection within the Persian coast and islands, and includes, by virtue of the Act of Parliament of the session of the 39th and 40th years of Her Majesty's reign (1876), chapter 46,* a subject of a Prince or State in India, in alliance with Her Majesty, residing or being within the Persian coast and islands :
 - (7.) "Resident" means having a fixed place of abode within the Persian coast and islands :
 - (8.) "Persian subject" means a subject of His Majesty the Shah of Persia :
 - (9.) "Foreigner" means a subject or citizen of a State in amity with Her Majesty, other than Persia :
 - (10.) "Persian or foreign court" means a court of the Government of Persia, or of any foreign State in amity with Her Majesty, and exercising lawful jurisdiction within the Persian coast and islands, and includes every member or officer of such a court :
 - (11.) "Administration" means (unless a contrary intention appears from the context) letters of administration, including the same with will annexed, or granted for special or limited purposes, or limited in duration :
 - (12.) "Ship" includes any vessel used in navigation, however propelled, with her tackle, furniture, and apparel, and any boat or other craft :
 - (13.) "Offence" means any act or omission punishable by a criminal court :

* The Slave Trade Act, 1876. Section 4 of this Act is repealed and consolidated by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

- (14.) "Imprisonment" means imprisonment of either description, as defined in the Indian Penal Code :
- (15.) "Month" means calendar month :
- (16.) "Will" means will, codicil, or other testamentary instrument :
- (17.) "Person" includes corporation.
- (18.) Words importing the plural or the singular may be construed as referring to one person or thing, or to more than one person or thing, and words importing the masculine as referring to females (as the case may require).

4.—(1.) This Order shall be published in the Gazette of India, within such time after the passing thereof as the Secretary of State may prescribe, and shall come into force on such day (hereinafter called the commencement of this Order), within six months after that publication, as the Governor-General of India in Council may, by notification in the said Gazette, appoint in this behalf.*

(2.) But any appointment under this Order may be made at any time after its passing, and no proof shall, in any proceedings, be required of any of the matters prescribed by this article.

PART II.—*Application and Effect of Order.*

5.—(1.) This Order applies to—

- (i.) British subjects being with the Persian coast and islands, whether resident or not ;
- (ii.) British ships being within the Persian coast and islands ; and
- (iii.) Persian subjects and foreigners, in the cases and according to the conditions, in this Order specified, but not otherwise.

(2.) Such of the provisions of this Order as refer to British subjects, or to British subjects only, extend to British-protected persons in so far as by treaty, grant, usage, sufferance, or other lawful means, Her Majesty has jurisdiction within the Persian coast and islands in relation to such persons.

6. All Her Majesty's jurisdiction exercisable within the Persian coast and islands, under the Foreign Jurisdiction Acts, for the hearing and determination of criminal or civil matters, or for the maintenance of order, or for the control or administration of persons or property, or in relation thereto, shall be exercised under and according to the provisions of this Order, so far as this Order extends and applies.

* This Order was published in the Gazette of India, February 15, 1890, and came into force, August 14, 1890, in accordance with notification in the Gazette of India of June 21, 1890.

PART III.—*Application of certain Portions of the Law of
British India.*

7.—(1.) Subject to the other provisions of this Order, and to any treaties for the time being in force relating to the Persian coast and islands, Her Majesty's criminal and civil jurisdiction within the Persian coast and islands shall, so far as circumstances admit, be exercised on the principles of, and in conformity with, the enactments for the time being applicable as hereinafter mentioned of the Governor-General of India in Council, and of the Governor of Bombay in Council, and in accordance with the powers vested in, and the course of procedure and practice observed by and before, the courts in the Presidency of Bombay beyond the limits of the ordinary original jurisdiction of the High Court of Judicature at Bombay according to their respective jurisdiction and authority, and, so far as such enactments, powers, procedure, and practice are inapplicable, shall be exercised in accordance with justice, equity, and good conscience.

(2.) The following enactments are hereby made applicable to the Persian coasts and islands as from the commencement of this Order, namely :—

- (a.) The Indian Penal Code Act 45 of 1860 ;
- (b.) The Indian Succession Act 10 of 1865 ;
- (c.) The Bombay Civil Courts Act 14 of 1869, except sections 6, 15, 23, 32, 33, 34, 38 to 43, both inclusive, the last clause of section 19, and the last two clauses of section 22 ;
- (d.) The Indian Evidence Act 1 of 1872 ;
- (e.) The Indian Oaths Act 10 of 1873 ;
- (f.) The Code of Criminal Procedure Act 10 of 1882 ;
- (g.) The Code of Civil Procedure Act 14 of 1882 ;
- (h.) Acts of the Governor-General of India in Council amending any of the foregoing Acts, and in force at the time of the passing of this Order ; and
- (i.) The enactments relating to insolvency and bankruptcy for the time being in force in the Presidency of Bombay beyond the limits of the ordinary original jurisdiction of the High Court of Judicature at Bombay.

(3.) Any other existing or future enactments of the Governor-General of India in Council, or of the Governor of Bombay in Council, shall also be applicable to the Persian coast and islands, but shall not come into operation until such times as may, in the case of any of such enactments respectively be fixed by the Secretary of State, or, with his previous or subsequent assent, by the Governor-General of India in Council.

(4.) For the purpose of facilitating the application of any such enactments as before mentioned—

- (a.) any of the Courts established under this Order may construe any such enactment, with such alterations not affecting the substance, as may be necessary or proper to adapt the same to the matter before the Court ;

- (b.) the Secretary of State, or, with his previous or subsequent assent, the Governor-General of India in Council, may, by order from time to time, direct by what authority any jurisdiction, powers, or duties incident to the operation of any such enactment, and for the exercise or performance of which no convenient provision has been otherwise made, shall be exercised or performed ;
- (c.) the Secretary of State, or with his previous or subsequent assent, the Governor-General of India in Council, may, by order from time to time, modify, for the purposes of this Order, any provision of any of the before-mentioned enactments, or of any amending or substituted enactment, relating to civil or criminal procedure, or to procedure in insolvency or bankruptcy ; and
- (d.) any order of the Secretary of State or of the Governor-General of India in Council made in pursuance of this article shall be published within the Persian coast and islands, and in India, in such manner as the Secretary of State or the Governor-General in Council, as the case may be, directs, and shall have effect as from a date to be specified in the order.

PART IV.—*Criminal Matters.*

8. Subject to the other provisions of this Order, the Code of Criminal Procedure and the other enactments relating to the administration of criminal justice in British India for the time being applicable to the Persian coast and islands, shall have effect as if the Persian coast and islands were a district in the Presidency of Bombay, and the judicial assistant shall be deemed to be the district magistrate ; the Consul-General shall be deemed to be the sessions judge ; the High Court of Judicature at Bombay (hereinafter called the High Court of Bombay) shall be deemed to be the High Court ; and the powers both of the Governor-General in Council and of the local government under those enactments shall be exercisable by the secretary of State, or, with his previous or subsequent assent, by the Governor-General of India in Council.

9. When any person is committed to the High Court of Bombay for trial, the Consul-General may, under, and in accordance with, the provisions of section 4 of the Foreign Jurisdiction Act, 1843,* send him to Bombay for trial, and may, if he thinks fit, bind over such of the proper witnesses as are British subjects, or any of them, in their own recognisances to appear and give evidence on the trial.

10. If a British subject smuggles or imports into or exports from the Persian coast and islands any goods whereon any duty is charged or payable to the Government of Persia, with intent to evade payment of the duty, he shall be punished with imprison-

* 6 & 7 Vict. c. 94, now repealed and consolidated with other Acts by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

ment for a term which may extend to two months, or with fine which may extend to 1000 rupees (459·77 dollars), or with both.

11.—(1.) The Consul-General may, if he thinks fit, from time to time, by general order, prescribe the manner in which, and the places within the Persian coast and islands at which, sentences of imprisonment are to be carried into execution.

(2.) The Consul-General may, if he thinks fit, in any case, by warrant signed by him and sealed with his seal, cause an offender convicted and sentenced to imprisonment before a Criminal Court established under this Order to be sent and removed to, and imprisoned in, any place within the Persian coast and islands.

12. Where an offender convicted before any Court established under this Order is sentenced to imprisonment, and the Consul-General proceeding under section 5 of the Foreign Jurisdiction Act, 1843,* authority in that behalf being hereby given to him, considers it expedient that the sentence should be carried into effect within Her Majesty's dominions, and the offender is accordingly sent for imprisonment to a place in Her Majesty's dominions, the place shall be either a place in the Presidency of Bombay, or a place in some other part of Her Majesty's dominions out of the United Kingdom, the Government whereof consents that offenders may be sent thither under this article.

13.—(1.) In cases of murder or culpable homicide, if either the death or the criminal act which wholly or partly caused the death happened within the Persian coast and islands, a Court acting under this Order, shall have the like jurisdiction over any British subject who is charged either as a principal offender or as an abettor, as if both such criminal act and the death had happened within the Persian coast and islands.

(2.) In the case of any crime committed on the high seas or within the Admiralty jurisdiction by any British subject who at the time of committing such crime was on board a British ship, or on board a foreign ship to which he did not belong, a Court acting under this Order, shall have jurisdiction as if the crime had been committed within the Persian coast and islands.

(3.) In cases tried under this article no different sentence can be passed from the sentence which could be passed in England if the crime were tried there.

(4.) The foregoing provisions of this article shall be deemed to be adaptations, for the purposes of this Order and of the Foreign Jurisdiction Act, 1878,† of the following enactments described in the First Schedule to that Act, namely :—

- (a.) The Admiralty Offences (Colonial) Act, 1849 ; ‡
- (b.) The Admiralty Offences (Colonial) Act, 1860 ; § and
- (c.) The Merchant Shipping Act, 1867,|| section 11 ;

* 6 & 7 Vict. c. 94, now repealed and consolidated with other Acts by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

† 41 & 42 Vict. c. 67, now repealed and consolidated with other Acts by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

‡ 12 & 13 Vict. c. 96.

§ 23 & 24 Vict. c. 122.

|| 30 & 31 Vict. c. 124, now repealed and consolidated with other Acts by the Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60).

and the said enactments shall, so far as they are repeated and adapted by this article (but not further or otherwise), extend to the Persian coast and islands.

14. The Fugitive Offenders Act, 1881,* shall apply to the Persian coast and islands as if the same were a British possession, subject, so far as regards matters to be done in the Persian coast and islands, to the conditions, exceptions, and qualifications following :—

- (i.) The said Act shall apply only in the case of British subjects.
- (ii.) The Consul-General is, for the purposes of the said Act, substituted for the Governor of a British possession, and for a Superior Court, or a Judge thereof, in a British possession, and for a magistrate or justice of the peace in a British possession.
- (iii.) So much of the fourth and fifth sections of the said Act as relates to the sending a report of the issue of a warrant, together with the information, or a copy thereof, or to the sending of a certificate of committal and report of a case, or to the information to be given by a magistrate to a fugitive, shall be excepted.
- (iv.) So much of the sixth section of the said Act as relates to *habeas corpus*, and as requires the expiration of fifteen days before issue of a warrant, shall be excepted.
- (v.) The said Consul-General shall not be bound to return a fugitive offender to a British possession unless satisfied that the proceedings to obtain his return are taken with the consent of the Governor of that possession.

15. The Colonial Prisoners Removal Act, 1884,† shall apply to the places to which this Order applies as if such places were a British possession, subject to the following qualifications :—

- (1.) It shall apply with respect to British subjects only.
- (2.) Anything to be done by or in relation to the Governor or Government of a British possession shall be done by or in relation to the Consul-General or other officer or person designated from time to time in this behalf by a Secretary of State.

16. Where a warrant or order of arrest is issued by a competent consular authority in inland Persia for the apprehension of a person who is accused of crime, committed in inland Persia,‡ and who is, or is supposed to be, within the limits of this Order, and such warrant or order is produced to any Court acting under this Order, the Court may back the warrant or order, and the same, when so backed, shall be sufficient authority to any person to whom it was originally directed, and also to any constable or officer of the Court by which it is backed, and to any person named on the back of the warrant or order, to apprehend the accused person at any place within the limits of this Order, and to carry him to and deliver him

* 44 & 45 Vict. c. 69.

† 47 & 48 Vict. c. 31.

‡ See Persian Order in Council, 1889, printed at p. 575 above.

up within the jurisdiction of the authority issuing the warrant or order.

17. Where a British subject is convicted of an offence, the Court before which he is convicted may, if it thinks fit, require him to give security to the satisfaction of the Court for his future good behaviour, and for that purpose may, if it thinks fit, cause him to come or be brought before the Court.

18.—(1.) If a British subject, required by an order under the last foregoing article of this Order, or under the law relating to criminal procedure for the time being in force, to give security for good behaviour or for keeping the peace, fails to do so, the Court making the order may, if it thinks fit, order that he be deported from the Persian coast and islands to a place to be named by the Consul-General.

(2.) The Court, on making an order of deportation, shall forthwith report to the Consul-General the order, and the grounds thereof.

(3.) Thereupon the person ordered to be deported shall, if the Consul-General thinks fit, be, as soon as practicable, and in the case of a person convicted, either after execution of the sentence or while it is in course of execution, removed in custody under the warrant of the Consul-General to the place named in the warrant.

(4.) The place shall be either a place in the Presidency of Bombay, or a place in some other part of Her Majesty's dominions out of the United Kingdom, the Government whereof consents to the reception therein of persons deported under this Order.

(5.) The Court, on making an order of deportation may, if it thinks fit, order the person to be deported to pay all or any part of the expenses of his deportation, to be fixed by the Court in the order. Subject thereto, the expenses of deportation shall be defrayed as the Secretary of State, with the concurrence of the Commissioners of Her Majesty's Treasury, directs.

(6.) The Consul-General shall forthwith report to the Secretary of State every order of deportation made under this Order, and the grounds thereof, and the proceedings thereunder.

(7.) If a person deported under this Order returns to the Persian coast and islands without permission in writing of the Consul-General, or the Governor-General of India in Council, or the Secretary of State, he shall be punished with imprisonment for a term which may extend to two months, or with a fine which may extend to 1000 rupees (459·77 dollars), or with both.

(8.) He shall also be liable to be forthwith again deported under the original or a new order, and a fresh warrant of the Consul-General.

19. If any person subject to criminal jurisdiction under this Order does any of the following things, namely :—

- (i.) Wilfully by act or threat obstructs any officer of or person executing any process of the Court in the performance of his duty ; or

- (ii.) Within or close to the room or place where the Court is sitting wilfully misbehaves in a violent, threatening or disrespectful manner to the disturbance of the Court, or to the intimidation of suitors or others resorting thereto; or
- (iii.) Wilfully insults any member of the Court, or any assessor, or any person acting as a clerk or officer of the Court during his sitting or attendance in Court, or in his going to or returning from Court; or
- (iv.) Does any act in relation to the Court or a Judge thereof or a matter pending therein, which, if done in relation to a Superior Court in England, or in India, would be punishable as a contempt of such Court, or as a libel on such Court, or the Judges thereof, or the administration of justice therein; such person shall be liable to be apprehended by order of the Court, with or without warrant, and, on inquiry and consideration, and after the hearing of any defence which such person may offer, without further process or trial, to be punished with a fine not exceeding 100 rupees (45·97 dollars), or with imprisonment not exceeding twenty-four hours.

A minute shall be made and kept of every such case of punishment, recording the facts of the offence and the extent of the punishment, and a copy of the minute shall be forthwith sent to the Governor-General of India in Council.

Provided that, if the Court thinks fit, instead of proceeding under the preceding provisions, it may direct or cause the offender to be tried in a separate criminal prosecution or proceeding in which the offender shall be liable to any punishment to which he would be liable if the offence were committed in relation to the Court of a Sessions Judge in India.

Nothing herein shall interfere with the power of the Court to remove or exclude persons who interrupt or obstruct the proceedings of the Court.

20. Where a person entitled to appeal to the High Court of Bombay from any judgment or order passed in the exercise of criminal jurisdiction under this Order desires so to appeal, he shall present his petition of appeal to the Court which passed the judgment or order; and the petition shall with all practicable speed be transmitted by or through the Consul-General to the High Court, with certified copies of the charge (if any) and proceedings, of all documentary evidence admitted or tendered, of the depositions, of the notes of the oral testimony, and of the judgment or order, and any argument on the petition of appeal that the appellant desires to submit to the High Court.

21. The Court against whose judgment or order the appeal is preferred shall postpone the execution of the sentence pending the appeal, and shall, if necessary, commit the person convicted to prison for safe custody, or detain him in prison for safe custody,

or shall admit him to bail, and may take security, by recognisance, deposit of money, or otherwise, for his payment of any fine.

22.—(1.) Where under this Order a person is to be sent or removed or deported from the Persian coast and islands, he shall, by warrant of the Consul-General under his hand and seal, be detained, if necessary, in custody, or in prison, until a fit opportunity for his removal or deportation occurs, and then be put on board a vessel belonging to, or in the service of, Her Majesty, or if no such vessel is available, then on board some other British or other fit vessel.

(2.) The warrant of the Consul-General shall be sufficient authority to the person to whom it is directed or delivered for execution, and to the commanding officer or master of the vessel, to receive and detain the person therein named, in the manner therein prescribed, and to send or remove and carry him to the place therein named, according to the warrant.

(3.) In case of sending or removal for any purpose other than deportation, the warrant of the Consul-General shall be issued in duplicate, and the person executing it shall, as soon as practicable after his arrival at the place therein named, deliver, according to the warrant, with one of the duplicates of the warrant, to a constable, or proper officer of police, or keeper of a prison, or other proper authority or person there, the person named in the warrant, to be produced on the order of the proper Court or authority there, or to be otherwise dealt with according to law.

PART V.—*Civil Matters.*

23. Subject to the other provisions of this Order, the Code of Civil Procedure, the Bombay Civil Courts Act, 1869, the Indian Succession Act, and the other enactments relating to the administration of civil justice and to insolvency and bankruptcy for the time being applicable to the Persian coast and islands, shall have effect as if the Persian coast and islands were a district in the Presidency of Bombay; the Consul General shall be deemed to be the District Judge of the district, and his Court the District Court or Principal Civil Court of Original Jurisdiction in the district; the High Court of Bombay shall be deemed to be the highest Civil Court of Appeal for the district and the Court authorised to hear appeals from the decisions of the District Court; and the powers, both of the Governor-General in Council and the Local Government, under those enactments, shall be exercisable by the Secretary of State, or, with his previous or subsequent assent, by the Governor-General of India in Council.

24.—(1.) The Consul-General shall endeavour to obtain, as early as may be, notice of the deaths of all British subjects dying within the Persian coast and islands leaving property to be administered, and all such information as may serve to guide him, with respect to the securing and administration of their property.

(2.) On receiving notice of the death of such a person, the Consul-

General shall put up a notice thereof at his office, and shall keep the same there until probate or administration is granted, or, where it appears to the Consul-General that probate or administration will not be applied for or cannot be granted, for such time as he thinks fit.

(3.) The Consul-General shall, where the circumstances of the case appear to him so to require, as soon as may be, take possession of the property within the Persian coast and islands of the deceased, or put it under his seal (in either case, if the nature of the property or other circumstances so require, making an inventory), and so keep it until it can be dealt with according to law.

(4.) All expenses incurred on behalf of the Consul-General in so doing shall be the first charge on the property of the deceased, and the Consul-General shall, by sale of part of that property, or otherwise, provide for the discharge of these expenses.

(5.) The Consul-General may, by an order under his hand, delegate to any officer subordinate to him, whether as Consul-General or as Political Resident in the Persian Gulf, the exercise of the powers and performance of the duties conferred and imposed on the Consul-General by this article

(6.) The Consul-General, or any officer or person acting under this article, shall not be responsible for anything done in good faith in execution, or intended execution, of this article.

25. If a person who has been named executor in a will, and to the establishment of whose title, as such, it is necessary to obtain probate of that will, takes possession of and administers or otherwise deals with any part of the property of the deceased, and does not obtain probate within one month after the death or after the termination of any proceeding respecting probate or administration, he shall be punished with fine, which may extend to 1000 rupees (459·77 dollars).

26. If any person, other than the person named executor, or the administrator, or a person entitled to represent the deceased without obtaining probate or letters of administration, or an officer subordinate to the Consul-General, either as such or as Political Resident in the Persian Gulf, takes possession of and administers or otherwise deals with any part of the property of the deceased, he shall, as soon as practicable, notify the fact and the circumstances to the Consul-General, and shall furnish to the Consul-General all such information as the Consul-General requires, and shall conform to any direction of the Consul-General in relation to the custody, disposal, or transmission of the property or the proceeds thereof, and, in case of any contravention of this article, he shall be punished with fine, which may extend to 1000 rupees (459·77 dollars).

27.—(1. When the peculiar circumstances of the case appear to the Court having jurisdiction to grant letters of administration so to require for reasons recorded in its proceedings, the Court may, if it thinks fit, of its own motion or otherwise, grant letters of administration to an officer of the Court.

(2.) The officer so appointed shall act under the direction of the Court, and shall be indemnified thereby.

(3.) He shall publish such notices, if any, as the Court thinks fit, within the Persian coast and islands, Bombay, the United Kingdom, and elsewhere.

(4.) The Court shall require and compel him to file in the proper office of the Court his accounts of his administration, at intervals not exceeding three months, and shall forthwith examine them and report thereon to the Consul-General.

(5.) The accounts shall be audited under the direction of the Consul-General.

(6.) All expenses incurred on behalf of the Court in execution of this article shall be the first charge on the estate of the deceased within the Persian coast and islands; and the Court shall, by the sale of that estate or otherwise, provide for the discharge of those expenses.

28.—(1.) Where any person entitled to appeal to the High Court of Bombay from any decree or order made in the exercise of civil jurisdiction under this Order desires so to appeal, he shall present his memorandum of appeal to the Court which made the decree or order, and, subject to the provisions hereinafter contained, that Court shall receive the same for transmission to the High Court in manner hereinafter provided.

(2.) The appellant shall give security to the satisfaction of the Consul-General, and to such amount as the Consul-General thinks reasonable, for prosecution of the appeal, and for payment of any costs which may be ordered by the High Court of Bombay on the appeal, to be paid by the appellant to any person.

(3.) The appellant shall pay into the proper office of the Court which passed the decree or order such sum as the Consul-General thinks reasonable, to defray the expense of the making up and transmission to the High Court of Bombay of the record.

29. The appellant may, with his memorandum of appeal, file any argument which he desires to submit to the High Court of Bombay in support of the appeal.

30.—(1.) The memorandum of appeal and the argument (if any) shall be served on such persons as respondents as the Court in which they are filed directs.

(2.) A respondent may, within fourteen days after service, file in that Court a memorandum (if any) of cross appeal, and such arguments as he desires to submit to the High Court of Bombay against the appeal, or in support of the cross appeal.

(3.) Copies thereof shall be furnished by the Court in which they are filed to such persons as the Court thinks fit.

31.—(1.) On the expiration of the time for the respondent filing his argument, the Court shall, without the application of any party, make up and send to the Consul-General the record of appeal, which shall consist of the memorandum of appeal and the arguments (if any), and certified copies of the following, namely, the

plaint, written statements (if any), all proceedings, all written and documentary evidence admitted or tendered, the notes of the oral evidence, the judgment, and the decree or order.

(2.) The several pieces shall be fastened together consecutively numbered, and the whole shall be secured by the seal of the Consul-General, and be forthwith forwarded by him to the High Court of Bombay.

(3.) The Consul-General may, if for special reasons he thinks fit, send any portion of the documentary evidence, in original, to the High Court.

PART VI.—*Vice-Admiralty.*

32. The Consul-General shall, for and within the Persian coasts and islands, and for vessels and persons coming within the Persian coast and islands, and in regard to vessels captured on suspicion of being engaged in the Slave Trade, have all such jurisdiction as for the time being ordinarily belongs to Courts of Vice-Admiralty in Her Majesty's possessions abroad.

PART VII.—*Persian and Foreign Subjects and Tribunals.*

33. . . . [*Repealed by the Order of 1895.*]

34.*—(1.) Where a Persian subject or foreigner desires to bring in a Court established under this Order a suit against a British subject, or a British subject desires to bring in such a Court a suit against a Persian subject or foreigner, the Court shall entertain the same, and shall hear and determine it.

(2.) Provided that the Persian subject or foreigner, if required by the Court, first obtains and files in the proper office of the Court the consent, in writing, of the competent authority (if any), on behalf of his own nation to his submitting, and that he does submit by writing, to the jurisdiction of the Court, and, if required by the Court, gives security to the satisfaction of the Court, and to such reasonable amount as the Court thinks fit, by deposit or otherwise, to pay fees, costs, and damages, and abide by, and perform the decision to be given by the Court or on appeal.

(3.) A cross suit shall not be brought in the Court against a plaintiff, being a Persian subject or foreigner, who has submitted to the jurisdiction, by a defendant, without leave of the Court first obtained.

(4.) The Court, before giving leave, may require proof from the defendant that his claim arises out of the matter in dispute, and that there is reasonable ground for it, and that it is not made for vexation or delay.

(5.) Nothing in this article shall prevent the defendant from bringing in the Court against the Persian subject or foreigner, after

* Article 34 is here reprinted as amended by the Order of 1895.

the termination of the suit in which the Persian subject or foreigner is plaintiff, any suit which the defendant might have brought in the Court against the Persian subject or foreigner if no provision restraining cross suits had been inserted in this Order.

(6.) Where a Persian subject or foreigner obtains, in a Court established under this Order, a decree or order against a defendant being a British subject, and in another suit that defendant is plaintiff and the Persian subject or foreigner is defendant, the Court may, if it thinks fit, on the application of the British subject, stay the enforcement of the decree or order pending that other suit, and may set off any amount decreed or ordered to be paid by one party in one suit against any amount decreed or ordered to be paid by the other party in the other suit.

(7.) Where a plaintiff, being a Persian subject or foreigner, obtains a decree or order, in a Court established under this Order, against two or more defendants, being British subjects, jointly, and in another suit one of them is a plaintiff and the Persian subject or foreigner is defendant, the Court may, if it thinks fit, on the application of the British subjects, stay the enforcement of the decree or order pending that other suit, and may set off any amount decreed or ordered to be paid by one party in one suit against any amount decreed or ordered to be paid by the other party in the other suit, without prejudice to the right of the British subject to obtain contribution from his co-defendants under the joint liability.

(8.) Where a Persian subject or foreigner is co-plaintiff in a suit with a British subject who is within the Persian coast and islands, it shall not be necessary for the Persian subject or foreigner to give security under this article as regards fees and costs, unless the Court so directs; but the co-plaintiff British subject shall be responsible for all fees and costs.

35.—(1.) Where it is proved that the attendance of a British subject to give evidence, or for any other purpose connected with the administration of justice, is required before a Persian or foreign Court, the Consul-General may, if he thinks fit, in a case and in circumstances in which he would, if acting in his judicial capacity, require the attendance of that person before himself, order that he do attend as required.

(2.) If the person ordered to attend, having reasonable notice of the time and place at which he is required to attend, fails to attend accordingly and does not satisfactorily excuse his failure, he shall, independently of any other liability, be liable to be punished with imprisonment for a term which may extend to two months, or with fine which may extend to 1000 rupees (459·77 dollars), or with both.

36.—(1.) If a British subject wilfully gives false evidence in a proceeding before a Persian or foreign Court, or in an arbitration between a British subject on the one hand, and a Persian subject or foreigner on the other hand, he shall, on conviction before a competent Court of Criminal Jurisdiction, be liable to be punished with imprisonment for a term which may extend to two months,

or with fine which may extend to 1000 rupees (459·77 dollars), or with both.

(2.) Nothing in this article shall exempt a person from liability under any other British or British Indian law to any other or higher punishment or penalty :

Provided that no person shall be punished twice for the same offence.

37.—(1.) Every agreement for reference to arbitration between a British subject on the one hand, and a Persian subject or a foreigner on the other hand, may, on the application of any party, be filed for execution in the proper office of a Court established under this Order.

(2.) The Court shall thereupon have authority to enforce the agreement, and the award made thereunder, and to control and regulate the proceedings before and after the award, in such manner and on such terms as the Court may think fit :

(3.) Provided that the Persian subject or foreigner, if so required by the Court, first obtains and files, in the proper office of the Court, the consent, in writing, of the competent authority (if any) on behalf of his own nation to his submitting, and that he does submit by writing to the jurisdiction of the Court, and, if required by the Court, gives security to the satisfaction of the Court, and to such reasonable amount as the Court thinks fit, by deposit or otherwise, to pay fees, costs, damages and expenses, and abide by and perform the award.

PART VIII.—*Registration of British Subjects.*

38.—(1.) Every resident British subject, being of the age of twenty-one years or upwards, or being married or a widower or widow, though under that age, shall, unless already registered, register himself or herself at an office appointed by the Consul-General in that behalf for the local area within which the British subject is resident.

(2.) Every such British subject, not resident, arriving at a place within the Persian coast and islands where there is an office as aforesaid, unless borne on the muster-roll of a British or foreign vessel there arriving, shall, within one month after arrival, register himself or herself at the office. But this provision shall not be deemed to require any person to register himself or herself oftener than once in a year reckoned from the first day of January.

(3.) The registration of a man shall, nevertheless, comprise the registration of his wife, if living with him ; and

(4.) The registration of the head, male or female, of a family, shall be deemed to comprise the registration of all females being his or her relatives, in whatever degree, living under the same roof with him or her at the time of his or her registration.

(5.) The officer in charge of the office shall give to each person registered by him a certificate of registration signed by him and sealed with his seal.

(6.) The name of a wife, if her registration is comprised in her husband's, shall, unless in any case the Consul-General sees good reason to the contrary, be indorsed on the husband's certificate.

(7.) The names and descriptions of females, whose registration is comprised in that of the head of the family, shall, unless in any case the Consul-General sees good reason to the contrary, be indorsed on the certificate of the head of the family.

(8.) Every person shall, on every registration of himself, pay a fee of 2 rupees 8 annas (1·15 dollar), or such other amount as the Secretary of State, or, with his previous or subsequent assent, the Governor-General of India in Council from time to time appoints.

(9.) The amount of the fee either may be uniform for all persons, or may vary according to the position and circumstances of different classes, as the Secretary of State or the Governor-General of India in Council, as the case may be, from time to time thinks fit, but shall not in any case exceed 2 rupees 8 annas (1·15 dollar).

(10.) Every person by this Order required to register himself at an office shall, unless excused by the officer in charge of the offices, or unless such person is a woman who, by the custom of the class to which she belongs, is prevented from appearing in public, attend personally for that purpose at the office on each occasion for registration.

(11.) If any person fails to comply with the provisions of this Order respecting registration, and does not satisfactorily excuse his failure, the Courts established and officers appointed under this Order may, in any case in which they think fit, decline to recognise him as a British subject.

PART IX.—*Procedure.*

39. Subject to the control of the Secretary of State, the Consul-General may, from time to time, with the previous sanction of the Governor-General of India in Council, make rules of procedure and other rules, consistent with this Order, for the better execution of the provisions herein contained in respect of any matter arising in the course of any civil or criminal case, including insolvency and bankruptcy proceedings.

40. Sections 7 and 11 of the Evidence Act, 1851 * (relating to proof of judgments and other documents), are hereby extended to the Persian coast and islands.

41. The Foreign Tribunals Evidence Act, 1856,† the Evidence by Commission Act, 1859,‡ the Evidence by Commission Act, 1885,§ or so much thereof as is for the time being in force, and any enactment for the time being in force amending or substituted for the same, are hereby extended to the Persian coast and islands, with the adaptation following, namely,—

In those Acts the Consul-General is hereby constituted for a Supreme Court in a colony.

* 14 & 15 Vict. c. 99,
‡ 22 Vict. c. 20.

† 19 & 20 Vict. c. 113.
§ 48 & 49 Vict. c. 74.

42. The British Law Ascertainment Act, 1859,* the Foreign Law Ascertainment Act, 1861,† or so much thereof as is for the time being in force, and any enactment for the time being in force amending or substituted for the same, are hereby extended to the Persian coast and islands, with the adaptation following: namely,—

In those Acts the Consul-General is hereby substituted for a Superior Court in a colony.

PART X.—*Supplemental Provisions.*

43.—(1.) Subject to the control of the Secretary of State acting with the concurrence of the Commissioners of Her Majesty's Treasury, the Consul-General may, from time to time, with the previous sanction of the Governor-General of India in Council, make rules imposing fees leviable in respect of any proceedings in, or processes issued out of, any court established under this Order.

(2.) But a Court before which any matter is pending may, in any case, if it thinks fit, on account of the poverty of a party, or for any other reason, dispense in whole or in part with the payment of any fees chargeable in respect of such matter.

(3.) Nothing in this Order shall affect any Order in Council for the time being in force under the Act of the 6 Geo. 4, c. 87,‡ or any Act amending that Act for prescribing a table of fees to be taken by consular officers; and where a fee is taken under that Order, no fee shall be taken in respect of the same matter under this Order.

44.—(1.) All fees, charges, expenses, costs, fines, damages, and other money payable under this Order, or under any law made applicable by this Order, may, if no provision is made by any law for the time being in force for the recovery of the same, be recovered by the Consul-General, or under his orders, by attachment and sale of the moveable property of the person by whom they are payable, and in case of deficiency by imprisonment in the civil gaol for a term not exceeding one month.

(2.) Any bill of sale or mortgage, or transfer of property, made with the view of avoiding such attachment or sale, shall not be effectual to defeat the provisions of this Order.

(3.) All fees, penalties, fines, and forfeitures levied under this Order shall be paid to the public account, and shall be applied in such manner as the Commissioners of Her Majesty's Treasury may direct.

45. Whenever an acting Consul-General or acting Judicial Assistant has commenced the hearing of any cause or matter,

* 22 & 23 Vict. c. 63.

† 24 & 25 Vict. c. 11.

‡ Now repealed (except sections 10–15 in part) by the Consular Salaries and Fees Act, 1891 (54 & 55 Vict. c. 36). See Order in Council under that Act dated August 10, 1892, published under the title "Consul, British."

civil or criminal, he may, unless the Consul-General otherwise directs, continue and complete the hearing and determination thereof, notwithstanding that his authority to act as Consul-General or as Judicial Assistant has otherwise ceased by reason of the expiration of the time for which he was appointed to act, or by reason of the happening of any event by which his authority is determined.

46.—(1.) If an officer of any Court established under this Order, employed to execute a decree or order, loses, by neglect or omission, the opportunity of executing it, then on complaint of the person aggrieved and proof of the fact alleged, the Court may, if it thinks fit, order the officer to pay the damages sustained by the person complaining, or part thereof.

(2.) The order may be enforced as an order directing payment of money.

47.—(1.) If a clerk or officer of any such Court, acting under pretence of the process or authority of the Court, is charged with extortion, or with not paying over money duly levied, or with other misconduct, the Court may, if it thinks fit, inquire into the charge in a summary way, and may for that purpose summon and enforce the attendance of all necessary persons as in a suit, and may make such order for the repayment of any money extorted, or for the payment over of any money levied, and for the payment of such damages and costs as the Court thinks fit.

(2.) The Court may also, if it thinks fit, on the same inquiry, impose on the clerk or officer such fine, not exceeding 50 rupees (22·99 dollars) for each offence, as the Court thinks fit.

(3.) A clerk or officer punished under this article shall not, without the leave of the Court, be liable to a civil suit in respect of the same matter; and any such suit, if already or afterwards begun, may be stayed by the Court in such manner and on such terms as the Court thinks fit.

(4.) Nothing in this article shall be deemed to prevent any person from being prosecuted under any other British or British Indian law for any act or omission punishable under this article, or from being liable under that other law to any other or higher punishment or penalty than that provided by this article:

Provided that no person shall be punished twice for the same offence.

48. The Court shall have jurisdiction from time to time to make an order requiring a person to contribute, in such manner as the Court directs, to the support of his wife, or to the support of his or her child, whether legitimate or not, being in the opinion of the Court under the age of 16 years. Any such order may be made in a summary way, as if the neglect to provide for the support of such wife or child were an offence, and any failure to comply with any such order shall be deemed to be an offence, and shall be punishable with a fine not exceeding 10 rupees (4·59 dollars) for any one default, and the Court may direct any penalty imposed for such offence to be applied for the support of such wife or child in such manner as the Court thinks fit.

Persia :—Coast and Islands :—Order of 1889 :—Arts. 49–51. 685

49. . . . [*Repealed by "The Persia (Regulations) Order in Council, 1901," printed at p. 689 below.*]

50. Any acts which, if done in the United Kingdom or in a British possession, would be an offence against any of the following statutes of the Imperial Parliament, or Orders in Council; that is to say :—

The Merchandise Marks Act, 1887.*

The Patents, Designs, and Trade Marks Acts, 1883 to 1888.†

Any Act, Statute, or Order in Council for the time being in force relating to copyright, or to inventions, designs, or trade marks.

Any statute amending or substituted for either of the above mentioned statutes—

Shall, if done by a British subject, within the limits of this Order, be punishable as an offence against this Order, whether such act is done in relation to any property or right of a British subject, or of a foreigner or Persian subject, or otherwise, however :

Provided—

- (1.) That a copy of any such statute or Order in Council shall be published by the Consul-General in his public office, and shall be there open for inspection by any person at all reasonable times; and a person shall not be punished under this article for anything done before the expiration of one month after such publication, unless the person offending is proved to have had express notice of the statute or Order in Council.
- (2.) That a prosecution by or on behalf of a prosecutor who is not a British subject shall not be entertained without the consent in writing of the Consul-General, who may withhold such consent unless he is satisfied that effectual provision exists for the punishment in Consular or other Courts of similar acts committed by the subjects of the State or Power of which such prosecutor is a subject, in relation to or affecting the interests of British subjects.

51. Where, by virtue of this Order or otherwise, any Imperial Act, or any law in force in India, is applicable in any place to which this Order applies, such Act or law shall be deemed applicable so far only as the constitution and jurisdiction of the Courts acting under this Order, and the local circumstances permit, and for the purpose of facilitating the application of any such Act or law, it may be construed with such alterations and adaptations not affecting the substance as may be necessary, and anything by such Act or law required to be done by or to any Court, Judge, officer, or authority may be done by or to a Court, Judge, officer,

* 50 & 51 Vict. c. 28.

† 46 & 47 Vict. c. 57; 48 & 49 Vict. c. 63; 49 & 50 Vict. c. 37; 51 & 52 Vict. c. 50.

or authority having the like or analogous functions, or by any officer designated by the Court for that purpose, and the seal of the Court may be substituted for any seal required by any such Act or law ; and in case any difficulty occurs in the application of any such Act or law, it shall be lawful for a Secretary of State to direct by and to whom, and in what manner, anything to be done under such Act or law is to be done, and such Act or law shall, in its application to matters arising within the limits of this Order be construed accordingly.

52. Judicial notice shall be taken of this Order, and of the commencement thereof, and of the appointment of the Consul-General or Judicial Assistant, and of the constitution and limits of the Courts and districts, and of consular seals and signatures, and of any rules and regulations made or in force under this Order, and no proof shall be required of any of such matters.

53. Nothing in this Order shall deprive the Consul-General or any officer subordinate to him, either as such or as Political Resident in the Persian Gulf, of the right to observe and to enforce the observance of, or shall deprive any person of the benefit of any reasonable custom existing within the Persian coast and islands, unless this Order contains some express and specific provision incompatible with the observance thereof.

54. Nothing in this Order shall—

- (i.) affect any power or jurisdiction conferred by, or referred to in, the Act of the Governor-General of India in Council, entitled the Foreign Jurisdiction and Extradition Act, 1879 (Act XXI. of 1879) ; or
- (ii.) affect any jurisdiction for the time being exercisable by the Consul-General under any Act of the British Parliament, other than the Foreign Jurisdiction Acts, 1843 to 1878 ; * or
- (iii.) prevent any consular officer of Her Majesty within the Persian coast and islands from doing anything which Her Majesty's Consuls in the dominions of any State in amity with Her Majesty are, for the time being, by law, usage, or sufferance entitled or enabled to do.

55. Criminal or civil proceedings pending at the commencement of this Order shall, from and after that time, be regulated by the provisions of this Order as far as the nature and circumstances of each case admit.

56. All judicial acts done before the passing of this Order within the Persian coast and islands by the Political Resident in the Persian Gulf, or by any officer subordinate to him and acting by his direction or with his approval, shall be deemed to be, and to have always

* 6 & 7 Vict. c. 94 ; 29 & 30 Vict. c. 87 ; 38 & 39 Vict. c. 85 ; 41 & 42 Vict. c. 67, now repealed and consolidated by the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37).

Persia :—Coast and Islands :—Order of 1889 :—Arts. 56–60. 687

been, as valid to all intents as if they had been done in accordance with law.

57. The Consul-General may exercise any power conferred on any Justice of the Peace within Her Majesty's dominions by any Act of Parliament for the time being in force regulating merchant seamen or the mercantile marine.

58. If a question arises whether any place is or is not within the Persian coast and islands for the purposes of this Order, it shall be referred to the Consul-General, and a certificate under his hand and seal shall be conclusive on the question and shall be taken judicial notice of by the High Court of Bombay, and by any Court established under this Order.

59. Not later than the thirty-first day of March in each year, or such other day as the Secretary of State directs from time to time, the Consul-General shall send to the Governor-General of India in Council, for transmission to the Secretary of State, a report on the operation of this Order up to the thirty-first day of December in the previous year, or such other date as the Secretary of State directs from time to time, showing for the last twelve months the number and nature of the proceedings, criminal and civil, taken under this Order, and the result thereof, and the number and amount of fees received, and containing an abstract of the list of registered British subjects and such other information, and being in such form as the Secretary of State from time to time directs.

60.—(1.) A printed copy of this Order, and of all rules of procedure and other rules for the time being in force under this Order shall be kept open to inspection free of charge in the office of the Consul-General, and of each Court established under this Order.

(2.) Printed copies thereof shall be sold within the Persian coast and islands at such reasonable price as the Consul-General from time to time directs.

And the Most Honourable the Marquis of Salisbury and the Right Honourable Viscount Cross, two of Her Majesty's Principal Secretaries of State, and the Lords Commissioners of the Admiralty are to give the necessary directions herein as to them may respectively appertain.

C. L. Peel.

THE CONSULAR COURTS (ADMIRALTY) ORDER IN COUNCIL, 1894.
DATED AUGUST 7, 1894.

1894. No. 199.

[This Order in Council is printed at p. 37 above.]

THE PERSIA (JUDICIAL FEES) ORDER IN COUNCIL, 1898.

1898. No. 125.

At the Court at Osborne House, Isle of Wight, the 3rd day of February, 1898.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President. Lord Arthur Hill.
Mr. Akers-Douglas.

Whereas by Treaty, grant, usage, sufferance, and other lawful means, Her Majesty the Queen has power and jurisdiction in Persia :

And whereas it is expedient to amend "The Persia Order in Council, 1889," * (in this Order referred to as "the principal Order") :

Now, therefore, Her Majesty, by virtue and in exercise of the powers in this behalf by "The Foreign Jurisdiction Act, 1890," † or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

1. This Order may be cited as "The Persia (Judicial Fees) Order in Council, 1898."

2. (a.) The Consul-General may, with the approval of the Secretary of State and concurrence of the Treasury, make Rules imposing fees leviable in respect of any proceedings in, or processes out of, any Court established under the principal Order.

(b.) But the Court may in any case, if it thinks fit, on account of the poverty of a party, or for any other reason, dispense in whole or in part with the payment of any fee chargeable in respect of such matter.

(c.) The Court shall in every such case forthwith report the dispensation to the Consul-General, and he shall give such directions thereon as he thinks fit.

(d.) Nothing in this Order shall affect any Order in Council prescribing a Table of Fees to be taken by Consular Officers ; and, when a fee is taken under that Order, no fee shall be taken in respect of the same matter under any rules made in pursuance of this Order.

3. As from the time when any Rules under this Order come into operation, Article 27 of the principal Order, and the second Schedule thereto, shall be repealed, and any reference in that Order to the fees imposed by that Article shall be construed to apply to the fees that may be imposed by Rules under this Order.

C. L. Peel.

* Printed at p. 575 above.

† 53 & 54 Vict. c. 37.

THE PERSIA (REGULATIONS) ORDER IN COUNCIL, 1901.

1901. No. 189.

At the Court at St. James's, the 9th day of February, 1901.

PRESENT :

The King's Most Excellent Majesty.

Lord President.
Duke of Marlborough.
Earl of Jersey.
Earl of Elgin.
Earl of Dartmouth.
Earl Waldegrave.
Earl of Cranbrook.
Viscount Llandaff.

Lord Belper.
Mr. Ritchie.
Sir Edmund Monson.
Sir Frank Lascelles.
Sir Fleetwood Edwards,
Sir Francis Plunkett.
Sir Mortimer Durand,
Sir Dighton Probyn.

Whereas by Treaty, capitulation, grant, usage, sufferance, and other lawful means, His Majesty the King has jurisdiction in the territories and places within the limits of "The Persia Order in Council, 1889,"* and "The Persian Coast and Islands Order in Council, 1889,"† respectively referred to in this Order as the "Persia Order," and the "Persian Coast Order:"

Now, therefore, His Majesty, by virtue and in exercise of the powers in this behalf by "The Foreign Jurisdiction Act, 1890,"‡ or otherwise in His Majesty vested, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered as follows, that is to say:—

1. This Order may be cited as "The Persia (Regulations) Order in Council, 1901."

2. This Order shall apply to all places within the limits of the Persia Order and the Persian Coast Order respectively, and the expressions "the Order" and the "Consul-General" shall be construed as applying to each of the said Orders as the case may require.

3. The Consul-General may make and alter regulations (to be called King's Regulations) for the following purposes, that is to say :

(1.) For securing the observance of any Treaty for the time being in force relating to any place within the limits of the Order, or of any native or local law or customs, whether relating to trade, commerce, revenue, or any other matter.

(2.) For the peace, order, and good government of British subjects or British-protected persons (so far as subject to the Order) within the said limit, in relation to matters not provided for by the Order.

(3.) For requiring returns to be made of the nature, quantity, and value of articles exported from or imported into places within

* Printed at p. 575.

† Printed at p. 667.

‡ 53 & 54 Vict. c. 37.

those limits by or on account of British subjects or British-protected persons, and for prescribing the times and manner at, or in which, and the persons by whom such returns are to be made.

(4.) For the governance, visitation, care, and superintendence of prisons.

4. King's Regulations may provide for forfeiture of any goods, receptacles, or things in relation to which, or to the contents of which, any breach of the Regulations is committed.

5. King's Regulations shall not take effect until they are allowed by a Secretary of State : provided that in case of urgency declared in any such Regulations, the same shall take effect before such allowance, and shall continue to have effect unless and until they are disallowed by the Secretary of State, and until notification of such disallowance is received and published by the Consul-General, and such disallowance shall be without prejudice to anything done or suffered under such Regulations in the meantime.

All King's Regulations shall be published by the Consul-General in such manner and at such places as he may think proper.

6. Any person committing any breach of the Regulations shall, in addition to any forfeiture prescribed thereby, be punishable with imprisonment, which may extend to three months, or to a fine, or to both.

7. Any fine imposed for a breach of the Regulations shall not exceed 100*l.* in the case of places within the limits of the Persia Order, or 1500 rupees in the case of places within the limits of the Persian Coast Order : provided that, in the case of any breach of any native or local law relating to the customs, or under which the exportation or importation of any goods is prohibited or restricted, the fine may extend to a sum equivalent to treble the value of the goods in relation to which the breach is committed.

8. In this Order "breach of the Regulations" includes the breach of any native or local law or custom, the observance of which is required by any King's Regulations.

9. Article 290 of the Persia Order, and Article 49 of the Persian Coast Order, are hereby repealed ; but nothing in this Order shall affect the validity of any Regulations made under those Articles, until superseded or replaced by Regulations made hereunder, or the enforcement of any penalty for any breach of such Regulations while in force.

10. This Order shall come into operation on the day on which it is first publicly exhibited in the office of the Consul-General.

A. W. FitzRoy.

10. Siam.

THE CONSULAR COURTS (ADMIRALTY) ORDER IN COUNCIL, 1894.
DATED AUGUST 7, 1894.

1894. No. 199.

[This Order in Council is printed at p. 37 above.]

THE SIAM ORDER IN COUNCIL, 1903.

1903. No. 123.

At the Court at Buckingham Palace, the 16th day of February,
1903.

PRESENT :

The King's Most Excellent Majesty.

Archbishop of Canterbury.
Lord President.

Marquess of Londondery.
Lord Chamberlain.

Whereas by Treaty, capitulation, grant, usage, sufferance, and other lawful means, His Majesty the King has jurisdiction within the dominions of the King of Siam :

Now, therefore, His Majesty, by virtue and in exercise of the powers in this behalf by "The Foreign Jurisdiction Act, 1890," * or otherwise in His Majesty vested, is pleased, by and with the advice of His Privy Council to order, and it is hereby ordered as follows :—

PART I.—PRELIMINARY AND GENERAL.

1. This Order may be cited as "The Siam Order in Council, 1903."

2. This Order is divided into parts, as follows :—

Parts.	Subject.	Articles.
I.	Preliminary and General	1-6
II.	Constitution and Powers of Courts	7-25
III.	Criminal Matters	26-74
IV.	Civil Matters	75-107
V.	Procedure, Criminal and Civil	108-118
VI.	Bills of Sale	119-135
VII.	King's Regulations	136-139
VIII.	Registration	140-157
IX.	International Court	158-161
X.	Foreign Subjects and Tribunals	162-164
XI.	Miscellaneous	165-175
	Schedule of Repealed Orders	

* 53 & 54 Vict. c. 37.

3. In the construction of this Order the following words and expressions have the meanings hereby assigned to them, unless there be something in the subject or context repugnant thereto, that is to say :—

- “Administration” means letters of administration, including the same with will annexed or granted for special or limited purposes or limited in duration.
- “The Minister” means His Majesty’s Minister, and includes Chargé d’Affaires or other chief Diplomatic Representative of His Majesty in Siam for the time being.
- “British merchant-ship” means a merchant ship being a British ship within the meaning of “The Merchant Shipping Act, 1894.”
- “British subject” includes a British-protected person, that is to say, a person who either (a) is a native of any Protectorate of His Majesty, and is for the time being in Siam ; or (b) by virtue of Section 15 of “The Foreign Jurisdiction Act, 1890,” or otherwise enjoys His Majesty’s protection in Siam.
- “Consular district” means the district in and for which a Consular officer usually acts, or for which he may be authorised to act, for all or any of the purposes of this Order by authority of the Secretary of State.
- “Consular officer” means a Consul-General, Consul, Vice-Consul, Consular Agent, or pro-Consul of His Majesty resident in Siam, including a person acting temporarily, with the approval of the Secretary of State, as or for a Consul-General, Consul, Vice-Consul, or Consular Agent of His Majesty so resident.
- “Consulate” and “Consular office” refer to the Consulate and office of a Consular officer.
- “The Court,” except when the reference is to a particular Court, means any Court established under this Order, subject, however, to the provisions of this Order with respect to powers and local jurisdictions.
- “Foreigner” means a subject or citizen of a State in amity with His Majesty, other than Siam.
- “Legal practitioner” includes barrister-at-law, advocate, solicitor, Writer to the Signet, and any person possessing similar qualifications.
- “Lunatic” means idiot or person of unsound mind.
- “Master,” with respect to any ship, includes every person (except a pilot) having command or charge of that ship.
- “Month” means calendar month.
- “Oath” and “affidavit,” in the case of persons for the time being allowed by law to affirm or declare, instead of swearing, include affirmation and declaration, and the expression “swear,” in the like case, includes affirm and declare.
- “Offence” includes crime, and any act or omission punishable criminally in a summary way or otherwise.
- “Office copy” means a copy made under the direction of

the Court, or produced to the proper officer of the Court for examination with the original, and examined by him and sealed with the seal of the Court.

“ Person ” includes Corporation.

“ Pounds ” means pounds sterling.

“ Prescribed ” means prescribed by Rules of Court.

“ Prosecutor ” means complainant or any person appointed or allowed by the Court to prosecute.

“ Proved ” means shown by evidence on oath, in the form of affidavit, or other form, to the satisfaction of the Court or Consular officer acting or having jurisdiction in the matter, and “ proof ” means the evidence adduced in that behalf.

“ Resident ” means having a fixed place of abode in Siam.

“ Rules of Court ” means rules of Court made under the provisions of this Order.

“ Secretary of State ” means one of His Majesty’s Principal Secretaries of State.

“ Ship ” includes any vessel used in navigation, however propelled, with her tackle, furniture, and apparel, and any boat or other craft.

“ Supreme Court ” means the Supreme Court of the Straits Settlements.

“ The Treasury ” means the Commissioners of His Majesty’s Treasury.

“ Treaty ” includes any Convention, Agreement, or Arrangement, made by or on behalf of His Majesty with any State or Government, King, Chief, people, or tribe, whether His Majesty the King of Siam is or is not a party thereto.

“ Will ” means will, codicil, or other testamentary instrument.

Expressions used in any rules, regulations, or orders made under this Order shall, unless a contrary intention appears, have the same respective meanings as in this Order.

4.—(1.) Words importing the plural or the singular may be construed as referring to one person or thing, or to more than one person or thing, and words importing the masculine as referring to the feminine (as the case may require).

(2.) Where this Order confers any power or imposes any duty, then, unless a contrary intention appears, the power may be exercised and the duty shall be performed from time to time as occasion requires.

(3.) Where this Order confers a power, or imposes a duty on or with respect to, a holder of an office, as such, then, unless a contrary intention appears, the power may be exercised and the duty shall be performed by, or with respect to, the holder for the time being of the office or the person temporarily acting for the holder.

(4.) Where this Order confers a power to make any rules, regulations, or orders, the power shall, unless a contrary intention appears, be construed as including a power exercisable in the like manner

and subject to the like consent and conditions, if any, to rescind, revoke, vary, or amend the rules, regulations, or orders.

(5.) This Article shall apply to the construction of any rules, regulations, or orders made under this Order, unless a contrary intention appears.

5. The jurisdiction conferred by this Order extends to the persons and matters following, in so far as by Treaty, grant, usage, sufferance, or other lawful means, His Majesty has jurisdiction in Siam in relation to such matters and things, that is to say :—

- (i.) British subjects, as herein defined, within the limits of this Order.
- (ii.) The property and all personal or proprietary rights and liabilities in Siam of British subjects, whether such subjects are within the said limits or not.
- (iii.) Siamese subjects and foreigners in the cases and according to the conditions specified in this Order and not otherwise.
- (iv.) Foreigners with respect to whom any State, King, Chief, or Government, whose subjects, or under whose protection they are, has by any Treaty, as herein defined or otherwise agreed with His Majesty for, or consents to, the exercise of power or authority by His Majesty.
- (v.) British ships with their boats, and the persons and property on board thereof, or belonging thereto, being within the Siamese dominions.

6. All His Majesty's jurisdiction exercisable in Siam for the hearing and determination of criminal or civil matters, or for the maintenance of order, or for the control or administration of persons or property, or in relation thereto, shall be exercised under and according to the provisions of this Order, and not otherwise.

PART II.—CONSTITUTION AND POWERS OF COURTS.

(i.) *Court for Siam.*

7.—(1.) There shall be a Court styled “His Britannic Majesty's Court for Siam” (in this Order referred to as the Court for Siam, and comprised in the term “the Court”).

(2.) Subject to the provisions of this Order, there shall be one Judge of the Court for Siam, who shall be appointed by His Majesty, by warrant under His Royal Sign Manual.

He shall be at the time of his appointment a member of the Bar of England, Scotland, or Ireland, of not less than five years' standing.

(3.) The Judge may hold a Commission from His Majesty as Consul-General or Consul.

(4.) There shall be attached to the Court for Siam a Registrar, a Marshal, and so many officers and clerks under such designations as the Secretary of State thinks fit.

(5.) In case of the death, illness, or other incapacity, or of the absence or intended absence from the Consular district of Bangkok of the Judge, the Minister may, if he thinks fit, appoint as Acting or Assistant Judge either the Consul at Bangkok or a person qualified to be appointed Judge.

(6.) The Secretary of State may temporarily attach to the Court for Siam such persons, being Consular officers, as he thinks fit.

(7.) Persons attached to the Court under this Article shall discharge such duties and exercise such powers in connection with the Court as may be prescribed by Rules of Court, or as the Judge, with the approval of the Secretary of State, may direct.

8. The Court for Siam shall have a seal, bearing the style of the Court and such device as the Secretary of State approves, but the seal in use in the District Court at Bangkok at the commencement of this Order shall continue to be used until a new seal is provided.

(ii.) *District Courts.*

9.—(1.) Every Consular officer, with such exceptions (if any) as the Secretary of State thinks fit to make, shall for and in his own Consular district hold and form a Court, in this Order referred to as a District Court.

(2.) Every District Court shall be styled "His Britannic Majesty's District Court at " (or as the case may be).

(3.) Every District Court shall, with the approval of the Court for Siam, appoint a competent person, or persons, to perform such duties and to exercise such powers as are by this Order and any Rules of Court imposed and conferred upon the Registrar and Marshal, and any person so appointed shall perform such duties and exercise such powers accordingly.

(iii.) *Supreme Court.*

10.—(1.) The Supreme Court shall have appellate jurisdiction under this Order.

(2.) The appellate jurisdiction of the Supreme Court shall be exercised by the full Supreme Court sitting in the Straits Settlements in such manner and according to such procedure as, subject to the provisions of this Order, the Supreme Court from time to time, by Rules of Court or otherwise, may direct.

(3.) Judgments or orders of the Supreme Court, in the exercise of its appellate jurisdiction, shall be certified by the Supreme Court to the Court for Siam or, when the appeal is from the judgment or order of the Supreme Court acting in Siam or in the Straits Settlements, then to such Court in Siam as the Supreme Court thinks fit, and (subject to any appeal to His Majesty in Council) that Court may and shall execute and give effect to the same in like manner as to its own judgments or orders.

(4.) Except as provided by this Order the Supreme Court shall not exercise any control over a Court in Siam, whether by way of mandamus, prohibition, certiorari, writ of *habeas corpus*, or otherwise.

11. The Supreme Court shall, for the purposes of this Order, have original jurisdiction as follows :—

- (1.) When, under this Order, a person accused of an offence is sent for trial to the Straits Settlements, the Supreme Court shall have the like jurisdiction, and may proceed in the same manner as if the offence had been committed in the Straits Settlements, except that the criminality of the act charged and the punishment to be inflicted must be determined according to the law applicable under this Order in Siam.
- (2.) On the request of the Minister (made with the consent of the Government of the King of Siam), the Supreme Court may exercise in Siam in relation to any civil or criminal matter any original jurisdiction which can be exercised by the Court for Siam, and all the provisions of this Order shall apply accordingly (*mutatis mutandis*), and any appeal shall be to the full Supreme Court.
- (3.) On the like request made with the like consent, the Supreme Court may hear and determine at Bangkok, or elsewhere in Siam, any criminal case which could under this Order be sent for trial to the Straits Settlements, and for that purpose shall have the like jurisdiction and may proceed in the same manner as nearly as may be as if it were trying the same case in the Straits Settlements, or as if it were the Court for Siam trying in Siam a criminal case within the jurisdiction of a District Court.
- (4.) The Supreme Court may hear and determine within the Straits Settlements any civil case arising in Siam, with the consent of the parties and of the Minister, and for that purpose may adopt any procedure proper either in the Straits Settlements or in Siam. In such case any appeal shall be to the full Supreme Court.
- (5.) For the purposes of the exercise of original jurisdiction under this Article, such Judge or Judges of the Supreme Court as the Chief Justice of the Straits Settlements from time to time nominates, shall exercise the powers of the Supreme Court.
- (6.) Every Court in Siam may and shall, according to its powers, execute, enforce, and give effect to any judgment or order of the Supreme Court in the exercise of its original jurisdiction, and may and shall, for the purposes of anything to be done preliminary to a sitting of the Supreme Court—as, for instance, the summoning of a jury, or of assessors, or of witnesses—exercise (*mutatis mutandis*) all the powers which such Court has for any purpose under this Order in a case or matter pending before itself.

(iv.) Powers of Courts.

12. All His Majesty's jurisdiction, civil and criminal, including any jurisdiction by this Order conferred expressly on a District Court, shall for and within the district of the Consulate of Bangkok, be vested exclusively in the Court for Siam as its ordinary original jurisdiction.

13. All His Majesty's jurisdiction, civil and criminal, not under this Order vested exclusively in the Court for Siam, shall to the extent and in the manner provided by this Order be vested in the District Courts.

14. The Court for Siam shall have in all matters, civil and criminal, an original jurisdiction, concurrent with the jurisdiction of the several District Courts, to be exercised subject and according to the provisions of this Order.

15. The Court for Siam shall ordinarily sit at Bangkok ; but may, on emergency, sit at any other place in Siam, and may at any time transfer its ordinary sittings to any such place as the Secretary of State approves. Under this Article the Judge and an Assistant Judge may sit at the same time at different places, and each sitting shall be deemed to be a sitting of the Court for Siam.

16. The Judge of the Court for Siam may visit in a magisterial or judicial capacity, any place in Siam, and there inquire of, or hear and determine, any case, civil or criminal, and may examine any records or other documents in any District Court, and give directions as to the keeping thereof.

17. Where any case, civil or criminal, commenced in a District Court, appears to that Court to be beyond its jurisdiction, or to be one which for any other reason ought to be tried in the Court for Siam, the District Court shall report the case to the Court for Siam for directions.

18. The Court for Siam may of its own motion, or upon the report of a District Court, or on the application of any party concerned, require any case, civil or criminal, pending in any District Court to be transferred to, or tried in, the Court for Siam, or may direct in what Court and in what mode, subject to the provisions of this Order, any such case shall be tried.

19. The Court for Siam and each District Court, shall, in the exercise of every part of its jurisdiction, be a Court of Record.

20. Every District Court shall execute any writ or order issuing from the Court for Siam and shall take security from any person named in a writ or order for his appearance personally or by attorney, and shall, in default of security being given, or when the Court for Siam so orders, send the person in custody to Bangkok.

21. The Court for Siam and each District Court, shall be auxiliary to one another in all particulars relative to the administration of justice, civil or criminal.

22. Subject to the provisions of this Order, criminal and civil cases may be tried as follows :—

- (a.) In the case of the Court for Siam by the Court itself, or by the Court with a jury, or with Assessors.
- (b.) In the case of a District Court by the Court itself, or by the Court with Assessors.

23.—(1.) Notwithstanding anything in this Order, the Court shall not exercise any jurisdiction in any proceeding whatsoever over the Minister, or over his official or other residences, or his official or other property.

(2.) Notwithstanding anything in this Order, the Court shall not exercise, except with the consent of the Minister, signified in writing to the Court, any jurisdiction in any proceeding over any person attached to or being a member of, or in the service of, the Legation.

(3.) If in any case under this Order it appears to the Court that the attendance of the Minister, or of any person attached to or being a member of the Legation, or being in the service of the Legation, to give evidence before the Court is requisite in the interest of justice, the Court may address to the Minister a request in writing for such attendance.

(4.) A person attending to give evidence before the Court shall not be compelled or allowed to give any evidence or produce any document, if, in the opinion of the Minister, signified by him personally or in writing to the Court, the giving or production thereof would be injurious to His Majesty's service.

(v.) *Jurors and Assessors.*

24.—(1.) Every male resident subject—being of the age of 21 years or upwards—having a competent knowledge of the English language—having or earning a gross income (at such rate as may be fixed by Rules of Court)—not having been attainted of treason or felony, or convicted of any crime that is infamous (unless he has obtained a free pardon)—and not being under outlawry—shall be qualified to serve on a jury.

(2.) All persons so qualified shall be liable so to serve except the following :—

Persons in His Majesty's Diplomatic, Consular, or other Civil Service, in actual employment ;

Officers, clerks, keepers of prisons, messengers, and other persons attached to or in the service of the Court ;

Officers and others on full pay in His Majesty's navy or army, or in actual employment in the service of any Department connected therewith ;

Persons holding appointments in the civil, naval, or military service of Siam ;

Clergymen and ministers in the actual discharge of professional duties ;

Legal practitioners in actual practice ;

Physicians, surgeons, and apothecaries in actual practice ;

Persons who are over 60 years of age, or are disabled by mental or bodily infirmity.

(3.) A jury shall consist of five jurors.

(4.) In criminal cases tried with a jury, the verdict of the jury must be unanimous. In civil cases the verdict must be unanimous unless the parties otherwise agree.

(5.) No challenge shall be allowed except for cause shown to the satisfaction of the Court.

(6.) No grand jury shall be summoned.

(7.) Where there is to be a hearing with a jury, the Court shall summon so many of the persons comprised in the jury list, not fewer than nine, as seem requisite.

(8.) Any person failing to attend, according to the summons, shall be deemed guilty of a contempt of Court, and shall be liable to a fine not exceeding 10l.

(9.) Any such fine shall not be levied until after the expiration of fourteen days. The proper officer of the Court shall forthwith give to the person fined notice in writing of the imposition of the fine, and require him within six days after receipt of the notice to file an affidavit excusing non-attendance (if he desire to do so). The Court shall consider the affidavit, and may, if it seems proper, remit the fine.

25.—(1.) An assessor shall be a competent and impartial subject of good repute, resident in the district of the particular Court, and nominated and summoned by the Court for the purpose of acting as Assessor.

(2.) In the Court for Siam there may be one Assessor or two Assessors, as the Court thinks fit.

(3.) In a District Court there shall ordinarily not be fewer than two, and not more than four, Assessors. Where, however, by reason of local circumstances, the Court is able to obtain the presence of one Assessor only, the Court may, if it thinks fit, sit with one Assessor only, and where, for like reasons, the Court is not able to obtain the presence of an Assessor, the Court may, if it thinks fit, sit without an Assessor, the Court in every case recording in the Minutes its reasons for sitting with one Assessor only or without an Assessor.

(4.) An Assessor shall not have any voice in the decision of the Court in any case, civil or criminal; but an Assessor dissenting, in a civil case, from any decision of the Court, or, in a criminal case, from any decision of the Court or the conviction or the amount of punishment awarded, may record in the Minutes his dissent, and the grounds thereof, and shall be entitled to receive, without payment, a certified copy of the Minutes.

(5.) If any person summoned to act as Assessor fails, without lawful excuse, to attend at the trial, or at any adjournment thereof, or to continue to serve throughout the trial, he shall be liable, under a summary order of the Court, to a fine not exceeding 10l., to be levied by attachment and sale of his goods within the district, and in default of recovery thereby of the fine to be imprisoned for any time not exceeding six days, if the fine is not sooner paid.

PART III.—CRIMINAL MATTERS.

26.—(1.) Except as regards offences made or declared such by this or any other Order relating to Siam, or by any Rules or Regulations made under any such Order :—

Any act that would not by a Court of Justice having criminal jurisdiction in England be deemed an offence in England, shall not, in the exercise of criminal jurisdiction under this Order, be deemed an offence or be the subject of any criminal proceeding under this Order.

(2.) Subject to the provisions of this Order, criminal jurisdiction under this Order shall, as far as circumstances admit, be exercised on the principles of, and in conformity with, English law for the time being, and with the powers vested in the Courts of Justice and Justices of the Peace in England, according to their respective jurisdiction and authority.

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Local Jurisdiction in Criminal Matters.

27. Every Court may cause to be summoned or arrested, and brought before it, any person subject to, and being within the limits of, its jurisdiction, and accused of having committed an offence cognisable under this Order and may deal with the accused according to the jurisdiction of the Court and in conformity with the provisions of this Order.

28. For the purposes of criminal jurisdiction every offence and cause of complaint committed or arising within the limits of this Order shall be deemed to have been committed or to have arisen, either in the place where the same actually was committed or arose, or in any place where the person charged or complained of happens to be at the time of the institution or commencement of the charge or complaint.

29. Where a person charged with an offence escapes or removes from the Consular district within which the offence was committed, and is found within another Consular district, the Court within whose district he is found may proceed in the case to trial and punishment, or to preliminary examination (as the case may require), in like manner as if the offence had been committed in its own district ; or may, on the requisition, or with the consent of the Court within whose district the offence was committed, send him in custody to that Court, or require him to give security for his surrender to that Court, there to answer the charge, and to be dealt with according to law.

Where any person is to be so sent in custody, a warrant shall be issued by the Court within whose district he is found, and that warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person therein named, and to carry him to and deliver him up to the Court within whose district the offence was committed, according to the warrant.

30.—(1.) In cases of murder or manslaughter, if either the death, or the criminal act which wholly or partly caused the death, happened within the jurisdiction of a Court acting under this Order, that Court shall have the like jurisdiction over any British subject who is charged either as the principal offender, or as accessory before the fact to murder, or as accessory after the fact to murder or manslaughter, as if both the criminal act and the death had happened within that jurisdiction.

(2.) In the case of any offence committed on the high seas, or within the Admiralty jurisdiction, by any British subject on board a British ship, or on board a foreign ship to which he did not belong, the Court shall, subject to the provisions of this Order, have jurisdiction as if the offence had been committed within the jurisdiction of that Court. In cases tried under this Article no different sentence can be passed from the sentence which could be passed in England if the offence were tried there.

(3.) The foregoing provisions of this Article shall be deemed to be adaptations, for the purposes of this Order and of "The Foreign Jurisdiction Act, 1890,"* of the following enactments, that is to say :—

"The Admiralty Offences (Colonial) Act, 1849."†

"The Admiralty Offences (Colonial) Act, 1860"‡

"The Merchant Shipping Act, 1894," section 686.§

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Apprehension and Custody of Accused Persons.

31.—(1.) Where a person charged with an offence is arrested on a warrant issuing out of any Court he shall be brought before the Court within forty-eight hours after the execution of the warrant, unless in any case circumstances unavoidably prevent his being brought before the Court within that time, which circumstances shall be recorded in the Minutes.

(2.) In every case, he shall be brought before the Court as soon as circumstances reasonably admit, and the time and circumstances shall be recorded in the Minutes.

32.—(1.) Where an accused person is in custody, he shall not be remanded at any time for more than seven days, unless circumstances appear to that Court to make it necessary or proper that he should be remanded for a longer time, which circumstances, and the time of remand, shall be recorded in the Minutes.

(2.) In no case shall a remand be for more than fourteen days at one time, unless in case of illness of the accused or other case of necessity.

33. Where the Court issues a summons or warrant against any person on complaint of an offence committed on board of, or in relation to a British ship, then, if it appears to the Court that the interests of public justice so require; that Court may issue a warrant or order for the detention of the ship, and may

* 53 & 54 Vict. c. 37.

† 23 & 24 Vict. c. 122.

‡ 12 & 13 Vict. c. 96.

§ 57 & 58 Vict. c. 60.

cause the ship to be detained accordingly until the charge is heard and determined, and the order of the Court thereon is fully executed, or for such shorter time as the Court thinks fit; and the Court shall have power to make all such orders as appear to it necessary or proper for carrying this provision into effect.

34.—(1.) Every District Court shall execute any writ or order issuing from the Court for Siam, and shall take security from any person named in a writ or order for his appearance personally or by attorney, and shall, in default of security being given, or when the Court for Siam so orders, send the person on board one of His Majesty's vessels of war to Bangkok, or such other port as may be named in the order, or, if no vessel of war is available, then on board some British or other fit vessel.

(2.) The order of the Court shall be sufficient authority to the commander or master of the vessel to receive and detain the person, and deliver him up at the port named according to the order.

35.—(1.) The Court may, in its discretion, admit to bail a person charged with any of the following offences, namely :—

Any felony.

Riot.

Assault on any officer in the execution of his duty, or on any person acting in his aid.

Neglect or breach of duty by an officer.

But a person charged with treason or murder shall not be admitted to bail except by the Court for Siam.

(2.) In all other cases the Court shall admit the accused to bail unless the Court, having regard to the circumstances, sees good reason to the contrary, which reason shall be recorded in the Minutes.

(3.) The Court for Siam may admit a person to bail, although a District Court has not thought fit to do so.

(4.) The accused who is to be admitted to bail, either on remand or on or after trial ordered, shall produce such surety or sureties as, in the opinion of the Court, will be sufficient to insure his appearance as and when required, and shall with him or them enter into a recognisance accordingly.

Trial with Jury or Assessors.

36.—(1.) When the offence charged is treason or murder, the case must be tried with a jury before the Court for Siam, or under the provisions of this Order before the Supreme Court.

(2.) In each of the two following cases, namely :—

(i.) Where the offence charged is rape, arson, housebreaking, robbery with violence, forgery or perjury; or,

(ii.) Where the offence charged is any other than aforesaid, but it appears to the Court at any time before the trial, the opinion of the Court being recorded in the Minutes, that the offence charged, if proved, would

not be adequately punished by imprisonment for three months with hard labour, or by a fine of 20l., or both such imprisonment and fine—

The charge shall be triable with a jury or assessors (according to the provisions of this Order applicable to the Court); but may, with the consent of the accused, be tried without assessors or jury. In the Court for Siam, when the accused does not so consent, the charge shall be tried with a jury, unless the Court is of opinion that a jury cannot be obtained.

(3.) The Court for Siam may, for any special reason, direct that any case shall be tried with assessors or a jury, and a District Court may, for any special reason, direct that any case shall be tried with assessors. In each such case the special reason shall be recorded in the Minutes.

37.—(1.) Where an accused person is ordered to be tried before a Court with a jury, or with assessors, he shall be tried as soon after the making of the order as circumstances reasonably admit.

(2.) As long notice of the time of trial as circumstances reasonably admit shall be given to him in writing, under the seal of the Court, which notice, and the time thereof, shall be recorded in the Minutes.

38.—(1.) The Court for Siam shall, when required by the Secretary of State, send to him a report of the sentence of the Court in any case tried before that Court with a jury or assessors, with a copy of the Minutes and notes of evidence, and with any observations which the Court thinks fit to make.

(2.) Every District Court shall, in accordance with Rules of Court, send to the Court a report of the sentence of the Court in every case tried by that Court with assessors, with such Minutes, notes of evidence, and other documents as such Rules may direct, and with any observations which the District Court thinks fit to make.

Summary Trial.

39. Where the complaint discloses an offence which is not required to be heard on a charge, and the Court does not think fit to direct it to be heard on a charge, the accused may be tried summarily on the complaint: Provided that no greater punishment shall be imposed than imprisonment for three months or a fine of 20l., or both.

Preliminary Examination.

40.—(1.) Where the accused is before the Court, and it appears to the Court that the complaint discloses an offence—

(a.) Which ought to be tried in or reported to another Court; or

(b.) Which ought to be tried before the same Court with a jury or assessors;

the Court shall proceed to make a preliminary examination in the prescribed manner.

(2.) Where the case is to be tried in or reported to another Court, the Court shall, on the conclusion of the preliminary examination, bind by recognisance the prosecutor and every witness to appear at the trial to prosecute, or to prosecute and give evidence, or to give evidence (as the case may be), and shall forthwith send the depositions with a minute of other evidence (if any) and a report, to the Court before which the trial is to take place.

41. Where a British subject is charged with the commission of an offence the cognisance whereof appertains to the Court, and it is expedient that the offence be inquired of, tried, determined, and punished within His Majesty's dominions elsewhere than in England, the accused may (under "The Foreign Jurisdiction Act, 1890," * section 6) be sent for trial to Singapore.

The Court for Siam may, where it appears so expedient, by warrant under the hand of the Judge and the seal of the Court, cause the accused to be sent for trial to Singapore accordingly.

The warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person therein named and to carry him to and deliver him up at Singapore according to the warrant.

Where any person is to be so sent to Singapore the Court before which he is charged shall take the preliminary examination, and shall bind over such of the proper witnesses as are British subjects in their own recognisances to appear and give evidence on the trial.

42.—(1.) If a British subject, having appeared as prosecutor or witness at a preliminary examination, refuses to enter into a recognisance to appear at the trial to prosecute or give evidence, the Court may send him to prison, there to remain until after the trial, unless in the meantime he enters into a recognisance.

(2.) But if afterwards, from want of sufficient evidence or other cause, the accused is discharged, the Court shall order that the person imprisoned for so refusing be also discharged.

(3.) Where the prosecutor or witness is not a British subject, the Court may require him either to enter into a recognisance or to give other security for his attendance at the trial, and if he fails to do so may, in its discretion, dismiss the charge.

(4.) Subject to Rules of Court made under this Order, the Court may order payment of the reasonable expenses of any complainant or witness attending before the Court on the trial of any criminal case by a jury or with assessors, and also of the reasonable expenses of the jury or assessors.

Charges.

43.—(1.) Every accused person, unless tried summarily, shall be tried upon a charge, which shall state the offence charged, with such particulars as to the time and place of the alleged offence, and the person (if any) against whom or the thing (if any) in

* 53 & 54 Vict. c. 37.

respect of which it was committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged.

(2.) The fact that a charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case.

(3.) Where the nature of the case is such that the particulars above mentioned do not give such sufficient notice as aforesaid, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will give such sufficient notice.

(4.) For the purposes of the application of any Statute law, a charge framed under the provisions of this Order shall be deemed to be an indictment.

44. For every distinct offence of which any person is accused there shall be a separate charge, and every such charge shall be tried separately, except in the cases following, that is to say :—

- (a.) Where a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, he may be charged with, and tried at one trial for, any number of them not exceeding three.
- (b.) If in one series of acts so connected together as to form the same transaction more offences than one are committed by the same person, he may be charged with and tried at one trial for every such offence.
- (c.) If the acts alleged constitute an offence falling within two or more definitions or descriptions of offences in any law or laws, the accused may be charged with, and tried at one trial for, each of such offences.
- (d.) If several acts constitute several offences, and also when combined, a different offence, the accused may be charged with, and tried at one trial for, the offence constituted by such acts when combined, or one or more of the several offences, but in the latter case shall not be punished with more severe punishment than the Court which tries him could award for any one of those offences.
- (e.) If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed a'l or any of such offences, and any number of such charges may be tried at once ; or he may be charged in the alternative with having committed some one of the offences ; and if it appears in evidence that he has committed a different offence for which he might have been charged, he may be convicted of that offence, although not charged with it.

45. When more persons than one are accused of the same offence or of different offences committed in the same transaction, or when

one is accused of committing an offence and another of abetting or attempting to commit that offence, they may be charged and tried together or separately, as the Court thinks fit.

46.—(1.) The Court, if sitting with a jury or assessors, may alter any charge at any time before the verdict of the jury is returned or the opinions of the assessors are expressed; if sitting without jury or assessors, at any time before judgment is pronounced.

(2.) Every such alteration shall be read and explained to the accused.

(3.) If the altered charge is such that proceeding with the trial immediately is likely, in the opinion of the Court, to prejudice the accused or the prosecutor, the Court may adjourn the trial for such period as may be necessary.

47.—(1.) No error or omission in stating either the offence or the particulars shall be regarded at any stage of the case as material, unless the accused was misled by such error or omission.

(2.) When the facts alleged in certain particulars are proved and constitute an offence, and the remaining particulars are not proved, the accused may be convicted of the offence constituted by the facts proved, although not charged with it.

(3.) When a person is charged with an offence, and the evidence proves either the commission of a minor offence or an attempt to commit the offence charged, he may be convicted of the minor offence or of the attempt.

48.—(1.) If the accused has been previously convicted of any offence, and it is intended to prove such conviction for the purpose of affecting the punishment which the Court is competent to award, the fact, date, and place of the previous conviction shall be stated in the charge.

(2.) If such statement is omitted, the Court may add it at any time before sentence is passed.

(3.) The part of the charge stating the previous convictions shall not be read out in Court nor shall the accused be asked whether he has been previously convicted, as alleged in the charge, unless and until he has either pleaded guilty to, or been convicted of, the subsequent offence.

(4.) If he pleads guilty to, or is convicted of, the subsequent offence, he shall then be asked whether he has been previously convicted, as alleged in the charge.

(5.) If he answers that he has been so previously convicted, the Court may proceed to pass sentence on him accordingly; but, if he denies that he has been so previously convicted, or refuses to, or does not, answer the question, the Court shall then inquire concerning the previous conviction, and in that case (where the trial is by jury) it shall not be necessary to swear the jurors again.

Punishments.

49. The powers of the Courts with respect to punishments are limited as follows :—

- (1.) The Court for Siam may award in respect of an offence any punishment which may in respect of a similar offence be awarded in England ; provided that (a) imprisonment with hard labour shall be substituted for penal servitude, and (b) the Court for Siam shall not award a fine exceeding 500*l.* ; or, in case of a continuing offence, in addition to imprisonment or fine, or both, a fine not exceeding 1*l.* for each day during which the offence continues after conviction.
- (2.) A District Court may award imprisonment not exceeding twelve months, with or without hard labour, and with or without a fine not exceeding 100*l.* ; or, a fine not exceeding 100*l.*, without imprisonment.
- (3.) But nothing in this Article shall be deemed to empower any Court to award for any offence any punishment not authorised by law in relation to that offence.

50.—(1.) If any person is guilty of an offence against this Order not distinguished as a grave offence against this Order, he is liable on summary conviction—

- (i.) To a fine not exceeding 5*l.*, without any imprisonment ;
or
- (ii.) To imprisonment not exceeding one month, without fine ; or
- (iii.) To imprisonment not exceeding fourteen days, with a fine not exceeding 2*l.*

(2.) Imprisonment under this Article is without hard labour.

51.—(1.) If any person is guilty of an offence against this Order, distinguished as a grave offence against this Order, he is liable, on summary conviction—

- (i.) To a fine not exceeding 10*l.*, without imprisonment ;
or
- (ii.) To imprisonment not exceeding two months, without fine ; or
- (iii.) To imprisonment not exceeding one month, with a fine not exceeding 5*l.*

(2.) Imprisonment under this Article is, in the discretion of the Court, with or without hard labour.

52.—(1.) The Court may, if he thinks fit, order a person convicted of an assault to pay to the person assaulted by way of damages any sum not exceeding 10*l.*

(2.) Damages so ordered to be paid may be either in addition to or in lieu of a fine, and shall be recoverable in like manner as a fine.

(3.) Payment of such damages shall be a defence to an action for the assault.

53.—(1.) The Court may, if it thinks fit, order a person convicted before it to pay all or part of the expenses of his prosecution, or of his imprisonment or other punishment, or of both, the amount being specified in the order.

(2.) Where it appears to the Court that the charge is malicious, or frivolous and vexatious, the Court may, if it thinks fit, order the complainant to pay all or part of the expenses of the prosecution, the amount being specified in the order.

(3.) In these respective cases the Court may, if it thinks fit, order that the whole or such portion as the Court thinks fit, of the expenses so paid be paid over to the complainant or to the accused (as the case may be).

(4.) In all cases the reasons of the Court for making any such order, or for refusing it if applied for, shall be recorded in the Minutes.

54. Where any person is sentenced to suffer the punishment of death, the Judge of the Court for Siam shall forthwith send a report of the sentence, with a copy of the Minutes of Proceedings and notes of evidence in the case, and with any observations he thinks fit, to His Majesty's Minister.

The sentence shall not be carried into execution without the direction of His Majesty's Minister in writing under his hand.

In any such case, if His Majesty's Minister does not direct that the sentence of death be carried into execution, he shall direct what punishment in lieu of the punishment of death is to be inflicted on the person convicted, and the person convicted shall be liable to be so punished accordingly.

55.—(1.) The Court for Siam may by general order, approved by the Secretary of State, prescribe the manner in which and the prisons in Siam at which punishments passed by any Court or otherwise awarded under this Order are to be carried into execution.

(2.) The warrant of any Court shall be sufficient authority to any person to whom it is directed to receive and detain the person therein named in any prison so prescribed.

56.—(1.) Where an offender is sentenced to imprisonment, and the Court for Siam thinks it expedient that the sentence be carried into effect within His Majesty's dominions, and the offender is accordingly, under section 7 of "The Foreign Jurisdiction Act, 1890," * sent for imprisonment to a place in His Majesty's dominions, the place shall be either Singapore, or a place in some other part of His Majesty's dominions, the Government whereof consents that offenders may be sent thither under this article.

(2.) The Court for Siam may, by warrant under the hand of a Judge and the seal of the Court, cause the offender to be sent to Singapore or other such place as aforesaid, in order that the sentence may be there carried into effect accordingly.

(3.) The warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person therein

* 53 & 54 Vict. c. 37.

named, and to carry him to and deliver him up at the place named, according to the warrant.

57.—(1.) The Court for Siam may, if it thinks fit, report to the Secretary of State recommending a mitigation or remission of any punishment awarded by any Court, and thereupon the punishment may be mitigated or remitted by the Secretary of State.

(2.) Nothing in this Order shall affect His Majesty's prerogative of pardon.

Inquests.

58.—(1.) The Court shall have and discharge all the powers, rights, and duties appertaining to the office of Coroner in England, in relation, not only to deaths of British subjects happening in the district of the Court, but also to deaths of any persons having happened at sea on board British ships arriving in the district, and to deaths of British subjects having happened at sea on board foreign ships so arriving, provided as follows:—

- (a.) Where a British subject is charged with causing the death, the Court may, without holding an inquest, proceed forthwith with the preliminary examination.
- (b.) Where a British subject is not charged with causing the death, the Court shall, without any jury, hold an inquest, taking the depositions of those who know the facts. If, during or after the inquest, a British subject is so charged, the depositions shall be read over in the presence of the witnesses and of the accused, who shall be entitled to cross-examine each witness, and the procedure shall be as in other cases of preliminary examination. If, after the inquest, the Court does not see fit to cause any person to be charged, the Court shall certify its opinion of the cause of the death. When the inquest is held by a District Court, the certificate and the depositions shall be sent forthwith to the Court for Siam, and that Court may give any directions which may seem proper in the circumstances.

(2.) In this Article the expression "the Court" includes the Registrar of the Court for Siam.

Statutory and other Offences.

59. Any act which, if done in the United Kingdom, or in a British possession, would be an offence against any of the following Statutes of the Imperial Parliament or Orders in Council, that is to say—

"The Merchandise Marks Act, 1887;" *

"The Patents, Designs, and Trade Marks Acts, 1883 to 1888;" †

* 50 & 51 Vict. c. 28.

† 46 & 47 Vict. c. 57; 48 & 49 Vict. c. 63; 49 & 50 Vict. c. 37; 51 & 52 Vict. c. 50.

Any Act, Statute, or Order in Council for the time being in force relating to copyright or to inventions, designs, or trade-marks ;

Any Statute amending, or substituted for, any of the above mentioned Statutes ;

Shall, if done by a British subject in Siam, be punishable as a grave offence against this Order, whether such act is done in relation to any property or right of a British subject, or of a foreigner, or native, or otherwise howsoever ;

Provided—

(1.) That a copy of any such Statute or Order in Council shall be published in the public office of the Consulate at Bangkok, and shall be there open for inspection by any person at all reasonable times : and a person shall not be punished under this Article for anything done before the expiration of one month after such publication, unless the person offending is proved to have had express notice of the Statute or Order in Council.

(2.) That a prosecution by or on behalf of a prosecutor who is not a British subject shall not be entertained unless the Court is satisfied that effectual provision exists for the punishment in Consular or other Courts in Siam of similar acts committed by the subjects of the State or Power of which such prosecutor is a subject, in relation to, or affecting the interests of, British subjects.

60.—(1.) If a British subject—

(i.) Smuggles, or attempts to smuggle, out of Siam any goods on exportation whereof a duty is payable to the Siamese Government ;

(ii.) Imports or exports, or attempts to import or export, into or out of Siam any goods, intending and attempting to evade payment of duty payable thereon to the Siamese Government ;

(iii.) Imports or exports, or attempts to import or export, into or out of Siam any goods the importation or exportation whereof, into or out of Siam, is prohibited by law ;

(iv.) Without a proper licence, sells, or attempts to sell, or offers for sale, in Siam, any goods whereof the Siamese Government has by law a monopoly ;

In each of the four cases aforesaid he shall be guilty of a grave offence against this Order.

(2.) Where a person is charged with such an offence as in this Article is mentioned, the Court may seize the goods in relation to which the alleged offence was committed, and may hold the same until after the hearing of the charge.

(3.) If a person so charged is convicted, then those goods, whether they have been so seized or not, shall be forfeited to His Majesty the King, and the Court shall dispose of them as the Court thinks fit.

61.—(1.) If any British subject, without His Majesty's authority, proof whereof shall lie on the party accused, does any of the following things, that is to say :—

- (a.) Levies war or takes any part in any operation of war against, or aids or abets any person in carrying on war, insurrection, or rebellion against the Government of Siam ; or
- (b.) Takes part in any operation of war in the service of the Government of Siam against any persons engaged in carrying on war, insurrection, or rebellion against that Government, he shall be guilty of an offence against this Order, and, on conviction thereof, shall be liable to imprisonment, with or without hard labour, for any term not exceeding two years, and with or without a fine not exceeding 500*l.*, or to a fine not exceeding 500*l.* without imprisonment.

(2.) In addition to any such punishment every conviction under the provisions of this Article shall of itself, and without further proceedings, make the person convicted liable to deportation, and the Court may order him to be deported from Siam in manner provided by this Order.

(3.) An offence against this Article shall not be tried except in the Court for Siam.

62. Any British subject being in Siam may be proceeded against, tried, and punished under this Order for piracy wherever committed.

If a person accused of piracy is brought before a District Court, that Court shall report the case to the Court for Siam, and the Court for Siam shall thereupon direct in what mode and when the case shall be heard and determined, and the case shall be heard and determined accordingly.

63.—(1.) Where, by agreement among the Diplomatic or Consular Representatives in Siam of foreign States, or some of them, in conjunction with the Siamese authorities, Sanitary, or Police, or Port, or Game, or other Regulations are established, and the same, as far as they affect British subjects, are approved by the Secretary of State, the Court may, subject and according to the provisions of this Order, entertain any complaint made against a British subject for a breach of those Regulations, and may enforce payment of any fine incurred by that subject or person in respect of that breach, in like manner, as nearly as may be, as if that breach were by this Order declared to be an offence against this Order.

(2.) In any such case the fine recovered shall be disposed of and applied in such manner (if any) as may be provided by those

Regulations, or otherwise in like manner as other fines recovered under this Order.

64. Every person subject to the criminal jurisdiction of the Court who prints, publishes, or offers for sale any printed or written newspaper or other publication containing matter calculated to excite tumult or disorder, or to excite enmity between His Majesty's subjects and the Government of Siam, or between that Government and its subjects, shall be guilty of a grave offence against this Order, and may, in addition to, or in lieu of, any other punishment, be ordered to give security for good behaviour, and in default thereof, or on a further conviction for the like offence, he may be ordered to be deported.

An offence against this Article shall not be tried in a District Court.

65.—(1.) If a British subject—

- (i.) Publicly derides, mocks, or insults any religion established or observed within Siam ; or
- (ii.) Publicly offers insult to any religious service, feast, or ceremony established or kept in any part of those dominions, or to any place of worship, tomb, or sanctuary belonging to any religion established or observed within those dominions, or belonging to the ministers or professors thereof ; or
- (iii.) Publicly and wilfully commits any act tending to bring any religion established or observed within those dominions, or its ceremonies, mode of worship, or observances, into hatred, ridicule, or contempt, and thereby to provoke a breach of the public peace ;

he shall be guilty of an offence, and, on conviction thereof, liable to imprisonment not exceeding two years, with or without hard labour, and with or without a fine not exceeding 50*l*, or to a fine alone not exceeding 50*l*.

(2.) Notwithstanding anything in this Order, every charge under this Article shall be heard and determined by the Court alone, without jury or Assessors, and any District Court shall have power to impose the punishment aforesaid.

(3.) Consular officers shall take such precautionary measures as seem to them proper and expedient for the prevention of such offences.

66.—(1.) If any person, subject to the criminal jurisdiction of a Court, does any of the following things, namely :—

- (a.) Wilfully, by act or threat, obstructs an officer of, or person executing any process of, the Court in the performance of his duty ; or
- (b.) Within or close to the room or place where the Court is sitting wilfully misbehaves in a violent, threatening, or disrespectful manner, to the disturbance of the Court, or to the intimidation of suitors or others resorting thereto ; or

- (c.) Wilfully insults any member of the Court, or any Assessor or juror, or any person acting as clerk or officer of the Court, during his sitting or attendance in Court, or in his going to or returning from Court ; or
- (d.) Does any Act in relation to the Court, or a matter pending therein, which, if done in relation to the High Court in England, would be punishable as a contempt of that Court ;

he shall be guilty of a grave offence against this Order ;

Provided that the Court, if it thinks fit, instead of directing proceedings as for an offence against this Order, may order the offender to be apprehended forthwith, with or without warrant, and on inquiry and consideration, and after the hearing of any defence which such person may offer, without further process or trial, may adjudge him to be punished with a fine not exceeding 10*l.*, or with imprisonment not exceeding twenty-four hours, at the discretion of the Court.

(2.) A Minute shall be made and kept of every such case of punishment, recording the facts of the offence, and the extent of the punishment. In the case of a District Court, a copy of the Minute shall be forthwith sent to the Court for Siam.

(3.) Nothing herein shall interfere with the power of the Court to remove or exclude persons who interrupt or obstruct the proceedings of the Court.

67.—(1.) If an officer of the Court employed to execute an order loses by neglect or omission the opportunity of executing it, then, on complaint of the person aggrieved, and proof of the fact alleged, the Court may, if it thinks fit, order the officer to pay the damages sustained by the person complaining, or part thereof.

(2.) The order shall be enforced as an order directing payment of money.

68.—(1.) If a clerk or officer of the Court, acting under pretence of the process or authority of the Court is charged with extortion, or with not paying over money duly levied, or with other misconduct, the Court, if it thinks fit, may inquire into the charge in a summary way, and may for that purpose summon and enforce the attendance of all necessary persons, as in an action, and may make such order for the repayment of any money extorted, or for the payment over of any money levied, and for the payment of such damages and costs, as the Court thinks fit.

(2.) The Court may also, if it thinks fit, on the same inquiry, impose on the clerk or officer such fine, not exceeding 5*l.*, for each offence, as the Court thinks fit.

(3.) A clerk or officer punished under this Article shall not be liable to an action in respect of the same matter ; and any such action, if begun, shall be stayed by the Court in such manner and on such terms as the Court thinks fit.

Deportation.

69.—(1.) Where it is proved that there is reasonable ground to apprehend that a British subject is about to commit a breach of the public peace—or that the acts or conduct of a British subject are or is likely to produce or excite to a breach of the public peace—the Court may, if it thinks fit, cause him to be brought before it, and require him to give security to the satisfaction of the Court, to keep the peace, or for his future good behaviour, as the case may require.

(2.) Where a British subject is convicted of an offence before the Court, the Court for the district in which he is may, if it thinks fit, require him to give security to the satisfaction of the Court for his future good behaviour, and for that purpose may (if need be) cause him to be brought before the Court.

(3.) In either of the foregoing cases, if the person required to give security fails to do so, the Court may order that he be deported from Siam to such place as the Court directs.

(4.) The place shall be a place in some part (if any) of His Majesty's dominions to which the person belongs, or the Government of which consents to the reception of persons deported under this Order.

(5.) A District Court shall report to the Court for Siam any order of deportation made by it and the grounds thereof, before the order is executed. The Court for Siam may reverse the order, or may confirm it with or without variation, and in case of confirmation, shall direct it to be carried into effect.

(6.) The person to be deported shall be detained in custody until a fit opportunity for his deportation occurs.

(7.) He shall, as soon as is practicable, and in the case of a person convicted, either after execution of the sentence or while it is in course of execution, be embarked in custody under the warrant of the Court for Siam on board one of His Majesty's vessels of war, or, if there is no such vessel available, then on board any British or other fit vessel bound to the place of deportation.

(8.) The warrant shall be sufficient authority to the commander or master of the vessel to receive and detain the person therein named, and to carry him to and deliver him up at the place named according to the warrant.

(9.) If any master of a British ship, after a reasonable remuneration for the conveyance of a deported person has been tendered or paid to him, refuses or fails to carry such person to the place named, he shall be liable to a penalty not exceeding 50*l*.

(10.) The Court may order the person to be deported to pay all or any part of the expenses of his deportation. Subject thereto, the expenses of deportation shall be defrayed in such manner as the Secretary of State, with the concurrence of the Treasury, may direct.

(11.) The Court for Siam shall forthwith report to the Secretary of State any order of deportation made or confirmed by it and the grounds thereof, and shall also inform His Majesty's Minister.

(12.) If any person deported under this or any former Order

returns to Siam without permission in writing to the Secretary of State (which permission the Secretary of State may give), he shall be deemed guilty of a grave offence against this Order ; and he shall also be liable to be forthwith again deported.

Appeal and Reserved Case.

70.—(1.) Where a person is convicted before a District Court—

- (a.) If he considers the conviction erroneous in law, then, on his application, within the prescribed time (unless it appears merely frivolous, when it may be refused); or
- (b.) If the District Court thinks fit to reserve for consideration of the Court for Siam any question of law arising on the trial ;

the District Court shall state a case, setting out the facts and the grounds of the conviction, and the question of law, and send it to the Court for Siam.

(2.) When a person is convicted before a Judge of the Court for Siam, the preceding provisions of this Article shall apply and be read as if the Court for Siam were substituted for the District Court, and the Supreme Court for the Court for Siam.

71.—(1.) Where a case is stated under the last preceding Article, the Court, before whom the trial was had (in this Article referred to as the Court below), shall, as it thinks fit, either postpone judgment on the conviction, or respite execution of the judgment, and either commit the person convicted to prison, or take security for him to appear and receive judgment, or to deliver himself for execution of the judgment (as the case may require), at an appointed time and place.

(2.) The Court for whose consideration the case is stated (in this Article referred to as the Court above), sitting without a jury or assessor, shall hear and finally determine the matter, and thereupon shall reverse, affirm, or amend the judgment given, or set it aside, and order an entry to be made in the Minutes that, in the judgment of that Court, the person ought not to have been convicted, or order judgment to be given at a subsequent sitting of the Court below, or make such other order as the Court above thinks just, and shall also give all necessary and proper consequential directions.

(3.) The judgment of the Court above shall be delivered in open Court, after the public hearing of any argument offered on behalf of the prosecutor or of the person convicted.

(4.) Before delivering judgment, the Court above may, if necessary, cause the case to be amended by the Court below.

(5.) The Court above shall not annul a conviction or sentence, or vary a sentence, on the ground—

- (a.) Of any objection which, if stated during the trial, might, in the opinion of the Court above, have been properly met by amendment at the trial ; or
- (b.) Of any error in the summoning of assessors ; or

- (c.) Of any person having served as assessor who was not qualified ; or
- (d.) Of any objection to any person as assessor which might have been raised before or at the trial ; or
- (e.) Of any informality in the swearing of any witness ; or
- (f.) Of any error or informality which, in the opinion of the Court above, did not affect the substance of the case or subject the convicted person to any undue prejudice.

72. Where, under Article 70 (1), a case is stated by a District Court to the Court for Siam, the Court for Siam may, if it thinks fit, either before or after giving its decision on the case, refer it to the consideration of the Supreme Court, and the foregoing provisions shall apply as if the case had been stated to the Supreme Court.

73. There shall be no appeal in a criminal case to His Majesty the King in Council from a decision of the Supreme Court, except by special leave of His Majesty in Council.

Fugitive Offenders.

74. "The Fugitive Offenders Act, 1881," * and "The Colonial Prisoners Removal Act, 1884," † shall apply to Siam, as if Siam were a British possession and part of His Majesty's dominions.

Subject as follows :—

- (a.) His Majesty's Minister is hereby substituted for the Governor or Government of a British possession, and
- (b.) The Court for Siam is hereby substituted for a Superior Court of a British possession.
- (c.) The Court for Siam and each District Court is substituted for a Magistrate of any part of His Majesty's dominions.
- (d.) For the purposes of Part II. of the said Act of 1881, and of this Article in relation thereto, Siam and the Straits Settlements shall be deemed to be one group of British possessions.

PART IV.—CIVIL MATTERS.

75. Subject to the provisions of this Order, the civil jurisdiction of every Court acting under this Order shall, as far as circumstances admit, be exercised on the principles of, and in conformity with, English law for the time being.

* 44 & 45 Vict. c. 69,

† 47 & 48 Vict. c. 31.

Procedure.

76.—(1.) Every civil proceeding in the Court shall be taken by action, and not otherwise, and shall be designated an action.

(2.) For the purposes of any statutory enactment or other provision applicable under this Order to any civil proceeding in the Court, an action under this Order shall comprise and be equivalent to a suit, cause, or petition, or to any civil proceeding, howsoever required by any such enactment or provision to be instituted or carried on.

77.—(1.) Every action shall commence by a summons, issued from the Court, on the application of the plaintiff, and served on the defendant (in this Order referred to as an original summons).

(2.) Every application in the course of an action may be made to the Court orally, and without previous formality, unless in any case the Court otherwise directs, or the Rules of Court otherwise provide.

(3.) No action or proceeding shall be treated by the Court as invalid on account of any technical error or mistake in form or in words.

(4.) All errors and mistakes may be corrected, and times may be extended, by the Court in its discretion, and on such terms as the Court thinks just.

78.—(1.) The sittings of the Court for the hearing of actions shall, where the amount of business so requires, be held on stated days.

(2.) The sittings shall ordinarily be public, but the Court may, for reasons recorded in the Minutes, hear any particular case in the presence only of the parties and their legal advisers and the officers of the Court.

79. There shall ordinarily be no written pleadings; but the Court may at any time, if it thinks fit, order the plaintiff to put in a written statement of his claim, or a defendant to put in a written statement of his defence.

80. The evidence on either side may, subject to the direction of the Court, be wholly or partly oral, or on affidavit, or by deposition.

81.—(1.) Notwithstanding anything in this Order, the Court (for reasons recorded in the Minutes) may at any time do any of the following things as the Court thinks just :—

(i.) Defer or adjourn the hearing or determination of any action, proceeding, or application ;

(ii.) Order or allow any amendment of any pleading or other document ;

(iii.) Appoint or allow a time for, or enlarge or abridge the time appointed or allowed for, or allow further time for, the doing of any act or the taking of any proceeding.

(2.) Any order within the discretion of the Court may be made on such terms respecting time, costs, and other matters, as the Court thinks fit.

82.—(1.) Subject to the provisions of this Order, every action in the Court for Siam which involves the amount or value of 200*l.* or upwards shall, on the demand of either party in writing, filed in the Court seven days before the day appointed for the hearing, be heard with a jury.

(2.) Any other suit may, on the suggestion of any party, at any stage, be heard with a jury, if the Court thinks fit.

(3.) Any suit may be heard with a jury if the Court, of its own motion, at any stage, thinks fit.

(4.) Where a jury is not employed the Court for Siam may hear any action with or without assessors.

83.—(1.) A District Court shall (subject to the provisions of this Order) hear with assessors every action which involves the amount or value of 150*l.* or upwards.

(2.) In all other cases, a District Court may, as it thinks fit, hear the action either with or without assessors.

84.—(1.) After the issue of a summons by any Court, the decision of that Court may be given upon a special case submitted to the Court by the parties.

(2.) Any decision of a District Court may be given subject to a case to be stated by, or under the direction of, that Court for the opinion or direction of the Court for Siam.

85. Subject to the provisions of this Order and the Rules of Court, the costs of, and incident to, all proceedings in the Court shall be in the discretion of the Court, provided that if the action is tried with a jury the costs shall follow the event, unless the Court shall for good cause (to be entered in the Minutes) otherwise order.

Arbitration.

86.—(1.) Any agreement in writing between any British subjects to submit present or future differences to arbitration, whether an Arbitrator is named therein or not, may be filed in the Court by any party thereto, and, unless a contrary intention is expressed therein, shall be irrevocable, and shall have the same effect as an order of the Court.

(2.) Every such agreement is in this Order referred to as a submission.

(3.) If any action is commenced in respect of any matter covered by a submission, the Court, on the application of any party to the action, may by order stay the action.

87.—(1.) In any action—

(a.) If all parties consent, or

(b.) If the matters in dispute consist wholly or partly of matters of account, or require for their determination prolonged examination of documents or any scientific or local examination,

the Court may at any time refer the whole action, or any question or issue arising therein, for inquiry and report, to the Registrar or any special Referee.

(2.) The Report of the Registrar or special Referee may be adopted wholly or partially by the Court, and if so adopted may be enforced as a judgment of the Court.

(3.) The Court may also in any case, with the consent of both parties to an action, or of any parties between whom any questions in the action arise (such consent being signified by a submission), refer the action or the portions referred to in the submission to arbitration, in such manner and upon such terms as it shall think reasonable or just.

(4.) In all cases of reference to a Registrar, special Referee, or Arbitrator, under any order of the Court, the Registrar, special Referee, or Arbitrator shall be deemed to be an officer of the Court, and shall have such powers and authority, and shall conduct such reference or arbitration in such manner as may be prescribed by any Rules of Court, and subject thereto as the Court may direct.

88. Subject to the Rules of Court, the Court shall have authority to enforce any submission, or any award made thereunder, and to control and regulate the proceedings before and after the award, in such manner and on such terms as the Court thinks fit.

Bankruptcy.

89.—(1.) Each Court shall, as far as circumstances admit, have, for and within its own district, with respect to the following classes of persons being either resident in Siam, or carrying on business there, namely, resident British subjects and their debtors and creditors, being British subjects, or foreigners submitting to the jurisdiction of the Court, all such jurisdiction in bankruptcy as for the time being belongs to the High Court and the County Courts in England.

(2.) Proceedings in bankruptcy shall be originated by a summons to the party to be made bankrupt to show cause why he should not be adjudicated bankrupt, or by a summons issued by a debtor himself to his creditor, or any of his creditors, to show cause why he (the debtor) should not be adjudicated bankrupt.

(3.) On or at any time after the issue of such a summons, the Court for Siam may stay any proceedings pending in any Court in any action, execution, or other legal process against the debtor in respect of any debt provable in bankruptcy, or it may allow such proceedings, whether pending at the commencement of the bankruptcy or begun during the continuance of the bankruptcy, to proceed on such terms as the Court thinks fit.

(4.) The Court may, on or at any time after the issue of such a summons, appoint a receiver or manager of the property or business of the debtor, or of any part thereof, and may direct immediate possession to be taken by an officer of the Court, or under the control of the Court, of that property or business, or of any part thereof.

Admiralty.

90.—(1.) The Court for Siam shall have Admiralty jurisdiction for and within the limits of this Order, and over vessels and persons coming within the same.

(2.) The following enactments of "The Colonial Courts of Admiralty Act, 1890," * that is to say, section 2, sub-sections (2) to (4); sections 5 and 6; section 16, sub-section (3); shall apply to the Court for Siam as if that Court were a Colonial Court of Admiralty, and as if Siam were a British possession; and for the purpose of this application the expressions "judgment" and "appeal" shall in the enactments so applied have the same respective meanings as are assigned thereto in section 15 of the said Act.†

Matrimonial.

91. The Court for Siam shall, as far as circumstances admit, have for and within Siam, with respect to British subjects, all such jurisdiction in matrimonial causes except the jurisdiction relative to dissolution or nullity or jactitation of marriage, as for the time being belongs to the High Court in England.

Lunacy.

92.—(1.) The Court for Siam shall, as far as circumstances admit, have for and within Siam, in relation to British subjects, all such jurisdiction relative to the custody and management of the persons and estates of lunatics, as for the time being belongs to the Lord Chancellor or other Judge or Judges in England intrusted by virtue of His Majesty's sign manual with the care and commitment of the custody of the persons and estates of lunatics, and also such jurisdiction as may be exercised in England by a judicial authority under the provisions of "The Lunacy Act, 1890," † or any Act amending the same.

(2.) A District Court shall, as far as circumstances permit, have, in relation to British subjects, such jurisdiction relative to the custody and management of the persons and estates of lunatics as for the time being may be prescribed by Rules of Court, and until such Rules are made, and so far as such Rules do not apply, as may be exercised in England by a judicial authority and by the Masters in Lunacy under the provisions of "The Lunacy Act, 1890," ‡ or any Act amending the same.

(3.) In any such case the District Court may, of its own motion, or on the application of any person interested, take or authorise such steps as to the Court may seem necessary or expedient for the immediate protection of the person and property of any person appearing to the Court to be a lunatic, and may, from time to time, revoke, or vary, or supplement any order or proceeding taken in the matter.

(4.) A District Court shall report any proceedings under this

* 53 & 54 Vict. c. 27.

† This Article supersedes "The Consular Courts (Admiralty) Order in Council, 1894," (printed at p. 57 above), as far as regards Siam.

‡ 53 & 54 Vict. c. 5.

Article to the Court for Siam, and shall thereafter proceed according to any directions of the Court for Siam.

(5.) Sections 5 to 7 of "The Lunatics Removal (India) Act, 1851" (14 and 15 Vict. cap. 81), shall apply to Siam, with the substitution of "the Court for Siam" for "the Supreme Court of Judicature at any of the Presidencies of India."

Probate and Administration.

93. All real or immovable property situate in Siam, and belonging at the time of his death to any British subject, shall be deemed to be personal estate; and the devolution thereof in case of intestacy shall be regulated according to the law of England for the time being relating to personal estate.

94.—(1.) The Court for Siam shall, as far as circumstances admit, have, for and within Siam, with respect to the wills and the property in Siam of deceased British subjects, all such jurisdiction as for the time being belongs to the High Court in England.

(2.) A District Court shall have power to grant probate or letters of administration where there is no contention respecting the right to the grant.

(3.) Probate or administration granted by a Court under this Order shall have effect over all the property of the deceased within Siam, and shall effectually discharge persons dealing with an executor or administrator thereunder, notwithstanding that any defect afterwards appears in the grant.

95. Section 51 of "The Conveyancing (Scotland) Act, 1874,"* and any enactment for the time being in force amending or substituted for the same, are hereby extended to Siam, with the adaptation following, namely :—

The Court for Siam is hereby substituted for a Court of Probate in a Colony.

96.—(1.) Where probate, administration, or confirmation is granted in England, Ireland, or Scotland, and therein, or by a Memorandum thereon signed by an officer of the Court granting the same, the testator or intestate is stated to have died domiciled in England, Ireland, or Scotland (as the case may be), and the probate, administration, or confirmation is produced to, and a copy thereof is deposited with, the Court for Siam, the Court shall write thereon a certificate of that production and deposit under the seal of the Court; and thereupon, notwithstanding anything in this Order, the probate, administration, or confirmation shall, with respect to the personal property in Siam of the testator or intestate, have the like effect as if he had been resident in those dominions at his death, and probate or administration to his personal property there had been granted by the Court for Siam.

(2.) Any person who, in reliance on an instrument purporting

* 37 & 38 Vict. c. 94.

to be a probate, administration, or confirmation granted in England, Ireland, or Scotland, and to bear such a certificate of the Court for Siam as in this Article prescribed, makes or permits any payment or transfer in good faith, shall be, by virtue of this Order, indemnified and protected in respect thereof, in Siam, notwithstanding anything affecting the validity of the probate, administration, or confirmation.

(3.) The following shall be the terms of the certificate of the Court for Siam in this Article prescribed, namely :—

This probate has [or these letters of administration have, or this confirmation has] been produced in this Court, and a copy thereof has been deposited with this Court.

97.—(1.) Where a British subject dies in Siam or elsewhere, intestate, then, until administration is granted, his personal property in Siam shall be vested in the Judge of the Court for Siam.

(2.) The Court within whose jurisdiction any property of the deceased is situate shall, where the circumstances of the case appear to the Court so to require, forthwith on his death, or as soon after as may be, take possession of his personal property within the particular jurisdiction, or put it under the seal of the Court (in either case if the nature of the property or other circumstances so require, making an inventory), and so keep it until it can be dealt with according to law.

98. If any person named executor in the will of the deceased takes possession of and administers or otherwise deals with any part of the personal property of the deceased, and does not obtain probate within one month after the death, or after the termination of any suit or dispute respecting probate or administration, he shall be guilty of an offence and shall be liable to a fine not exceeding 50*l*.

99. If any person, other than the person named executor or an administrator or an officer of the Court, takes possession of and administers or otherwise deals with any part of the personal property of a deceased British subject, whether resident or not, he shall be deemed guilty of a contempt of Court, and shall be liable to a fine not exceeding 50*l*.

100. Where a person appointed executor in a will survives the testator, but either dies without having taken probate, or, having been called on by the Court to take probate, does not appear, his right, in respect of the executorship wholly ceases; and without further renunciation, the representation to the testator and the administration of his property shall go and may be committed as if that person had not been appointed executor.

101.—(1.) Where a British subject dies in Siam, any other such subject having in his possession, or under his control, any paper or writing of the deceased, being, or purporting to be, testamentary, shall forthwith bring the original to the Court

within whose particular jurisdiction the death happens, and deposit it there.

If any person fails to do so for fourteen days after having knowledge of the death of the deceased, he shall be guilty of an offence and liable to a fine not exceeding 50*l*.

(2.) Where it is proved that any paper of the deceased, being or purporting to be testamentary, is in the possession or under the control of a British subject, the Court may, whether a suit or proceeding respecting probate or administration is pending or not, order him to produce the paper and bring it into Court.

(3.) Where it appears to the Court that there are reasonable grounds for believing that any person has knowledge of any paper being, or purporting to be, testamentary (although it is not shown that the paper is in his possession or under his control), the Court may, whether a suit or proceeding for probate or administration is pending or not, order that he be examined respecting it before the Court or elsewhere, and that he do attend for that purpose, and after examination order that he do produce the paper and deposit it in Court.

102. Where it appears to the Court that the value of the property or estate of a deceased person does not exceed 100*l*., the Court may, without any probate or letters of administration, or other formal proceeding, pay thereout any debts or charges, and pay, remit, or deliver any surplus to such persons, subject to such conditions (if any) as the Court thinks proper, and shall not be liable to any action, suit, or proceedings in respect of anything done under this Article. Every proceeding of the Court under this Article shall be recorded in the Minutes.

Appeals.

103.—(1.) Where an action in the Court involves the amount or value of 50*l*. or upwards, any party aggrieved by any decision of that Court, with or without Assessors, in the action shall have the right to appeal against the same, on such terms and conditions as may be prescribed by Rules of Court under this Order. The appeal lies from decisions of the District Court to the Court for Siam, and from original decisions of the Court for Siam to the Supreme Court.

(2.) In any other case the Court below may, if it seems just and expedient, give leave to appeal on like terms.

(3.) In any case the Court above may give leave to appeal on such terms as seem just.

104. Any party aggrieved by a decision of the Court of Siam, on appeal from a District Court, may appeal therefrom to the Supreme Court, on the like terms, and subject to the same conditions, as in the case of an original decision of the Court for Siam, and the provisions of the last preceding Article shall apply accordingly, provided that the Supreme Court may in any case to which this Article relates issue any orders or give directions either to the Court for Siam or to the District Court.

Appeals to his Majesty in Council.

105.—(1.) Where a final Judgment or order of the Supreme Court made in a civil action involves the amount or value of 500*l.* or upwards, any party aggrieved thereby may, within the prescribed time, or, if no time is prescribed, within fifteen days after the same is made or given, apply by motion to the Supreme Court for leave to appeal to His Majesty the King in Council.

(2.) The applicant shall give security to the satisfaction of the Court to an amount not exceeding 500*l.* for the prosecution of the appeal, and for such costs in the event of the dismissal of the appeal for want of prosecution as the Supreme Court may award, and for payment of all such costs as may be awarded to any respondent by His Majesty in Council, or by the Lords of the Judicial Committee of His Majesty's Privy Council.

(3.) He shall also pay into the Supreme Court a sum estimated by that Court to be the amount of the expense of the making up and transmission to England of the transcript of the record.

(4.) If security and payment are so given and made within two months from the filing of the motion-paper for leave to appeal, then, and not otherwise, the Supreme Court shall give leave to appeal, and the appellant shall be at liberty to prefer and prosecute his appeal to His Majesty in Council according to the Rules for the time being in force respecting appeals to His Majesty in Council from His Colonies, or such other Rules as His Majesty in Council from time to time thinks fit to make concerning appeals from the Supreme Court.

(5.) In any case the Supreme Court, if it considers it just or expedient to do so, may give leave to appeal on the terms and in the manner aforesaid.

106.—(1.) Where leave to appeal to His Majesty in Council is applied for by a person ordered to pay money or do any other act, the Supreme Court shall direct either that the order appealed from be carried into execution, or that the execution thereof be suspended pending the appeal, as the Court thinks just.

(2.) If the Court directs the order to be carried into execution, the person in whose favour it is made shall, before the execution of it, give security to the satisfaction of the Court for performance of such order as His Majesty in Council may think fit to make.

(3.) If the Court directs the execution of the order to be suspended, the party against whom it is given shall, before an order for suspension is made, give security to the satisfaction of the Court for performance of such order as His Majesty in Council may think fit to make.

107. This Order shall not affect the right of His Majesty at any time, on the humble petition of a person aggrieved by a decision of the Supreme Court, to admit his appeal thereon on such terms and in such manner as His Majesty in Council may think fit, and to deal with the decision appealed from in such manner as may be just.

PART V.—PROCEDURE, CRIMINAL AND CIVIL.

108.—(1.) In every case, civil or criminal, Minutes of the proceedings shall be drawn up, and shall be signed by the Judge or Consular officer before whom the proceedings are taken, and shall, where the trial is held with assessors, be open for their inspection and for their signature if concurred in by them.

(2.) These Minutes, with the depositions of witnesses, and the notes of evidence taken at the hearing or trial by the Judge or Consular officer, shall be preserved in the public office of the Court.

109. The Judge of the Court for Siam may make Rules of Court for the regulation of all matters of civil and criminal procedure.

Provision may amongst other things be made by such Rules—

- (a.) For prescribing forms of procedure
- (b.) For regulating the mode in which legal practitioners are to be admitted to practise as such ;
- (c.) For prescribing and enforcing the fees to be taken in respect of any proceedings under this Order, not exceeding, as regards any matters provided for by "The Consular Salaries and Fees Act, 1891,"* fees fixed and allowed from time to time by any Order in Council made under that Act ;
- (d.) For prescribing a scale of payments to be made to a complainant or witness, or a jury or assessors (in criminal cases only), and the conditions upon which an order may be made by the Court for such payments ;
- (e.) For prescribing scales of costs to be paid to practitioners ;
- (f.) For taking and transmitting depositions of witnesses for use at trials in a British possession or in England.

Rules framed under this Article shall not have effect until approved by the Secretary of State, and, so far as they relate to fees and costs, sanctioned by the Treasury ; but in case of urgency declared in any such Rules with the approval of His Majesty's Minister, the same shall effect unless and until they are disapproved by the Secretary of State, and notification of such disapproval is received and published by the Judge.

Until such Rules and Forms have been made, or in relation to matters to which they do not extend, a Court may adopt and use any procedure or forms heretofore in use in the Consular Court in Siam, and in force immediately before the commencement of this Order, with any modifications or adaptations which may be necessary.

110.—(1.) The Court may, in any case, if it thinks fit, on account of the poverty of a party, or for any other reason, provisionally dispense with the payment of any fee in whole or in part.

(2.) Payment of fees payable under any Rules to be made in pursuance of this Order, and of costs and of charges and expenses

* 54 & 55 Vict. c. 36.

of witnesses, prosecutions, punishments, and deportations and of other charges and expenses, and of fines respectively payable under this Order, may be enforced under order of the Court by seizure and sale of goods, and in default of sufficient goods, by imprisonment as a civil prisoner for a term not exceeding one month, but such imprisonment shall not operate as a satisfaction or extinguishment of the liability.

(3.) Any bill of sale or mortgage, or transfer of property made with a view of avoiding seizure or sale of goods or ship under any provision of this Order, shall not be effectual to defeat the provisions of this Order.

111.—(1.) Every person doing an act or taking a proceeding in the Court as plaintiff in a civil case, or as making a criminal charge against another person, or otherwise, shall do so in his own name and not otherwise, and either—

(a.) By himself; or

(b.) By a legal practitioner; or

(c.) By his attorney or agent thereunto lawfully authorised in writing and approved by the Court.

(2.) Where the act is done or proceeding taken by an attorney (other than a legal practitioner), or by an agent, the power of attorney, or instrument authorising the agent, or an authenticated copy thereof, shall be first filed in the Court.

(3.) Where the authority has reference only to the particular proceeding, the original document shall be filed.

(4.) Where the authority is general, or has reference to other matters in which the attorney or agent is empowered to act, an authenticated copy of the document may be filed.

(5.) Any person doing any act or taking any proceeding in the Court in the name or on behalf of another person, not being lawfully authorised thereunto, and knowing himself not to be so authorised, is guilty of a contempt of Court.

112.—(1.) In any case, criminal or civil, and at any stage thereof, the Court, either of its own motion or on the application of any party, may summon a British subject to attend to give evidence, or to produce documents, or to be examined.

(2.) If the person summoned, having reasonable notice of the time and place at which he is required to attend, and his reasonable expenses having been paid or tendered, fails to attend and be sworn, and give evidence or produce documents or submit to examination accordingly, and does not excuse his failure to the satisfaction of the Court, he shall be guilty of an offence against this Order.

(3.) If in any case, civil or criminal, a British subject wilfully gives false evidence on oath in the Court, or on a reference, he shall be deemed guilty of wilful and corrupt perjury.

113.—(1.) Whenever under this Order any person is to be taken for trial or imprisonment to the Court for Siam, or elsewhere in Siam, or to Singapore, England, or elsewhere, the Court or other authority by this Order authorised to cause him to be so taken,

may for that purpose (if necessary cause him to be embarked on board one of His Majesty's vessels of war, or if there is no such vessel available, then on board any British or other fit vessel, at any port or place, whether within or beyond the particular jurisdiction or district of that Court or authority, and in order to such embarkment may (if necessary) cause him to be taken, in custody or otherwise, by land or by water, from any place to the port or place of embarkment.

(2.) The writ, order, or warrant of the Court, by virtue whereof any person is to be so taken, shall be sufficient authority to every constable, officer, or other person acting thereunder, and to the commander or master of any vessel of war, or other vessel (whether the constable, officer, or other person, or the vessel or the commander or master thereof, is named therein or not), to receive, detain, take, and deliver up such person, according to the writ, order, or warrant.

(3.) Where the writ, order, or warrant is executed under the immediate direction of the Court or authority issuing it, the writ, order, or warrant shall be delivered to the constable, officer, or other person acting thereunder, and a duplicate thereof shall be delivered to the commander or master of any vessel in which the person to whom the writ, order, or warrant relates is embarked.

(4.) Where the writ, order, or warrant issues from the Court for Siam, and is executed by a District Court, a copy thereof, certified under the seal of the Court executing the same, shall be delivered to the constable, officer, or other person acting thereunder, and to the commander or master of any vessel in which the person taken is embarked; and any such copy shall be for all purposes conclusive evidence of the order of which it purports to be a copy.

114. Subject to the other provisions of this Order, all expenses of removal of prisoners and others from or to any place in Siam, or from or to Singapore, and the expenses of deportation and the expenses of sending of any person to England or elsewhere, shall be defrayed in such manner as the Secretary of State from time to time directs.

Any master of a British ship when required shall be bound to take such persons for a reasonable remuneration, to be determined by the Judge of the Court for Siam, and in case of non-compliance shall be liable to a penalty not exceeding 50l.

115. The following Acts, namely :—

“The Foreign Tribunals Evidence Act, 1856.” *

“The Evidence by Commission Act, 1859.” †

“The Evidence by Commission Act, 1885,” ‡ or so much thereof as is for the time being in force, and any enactment for the time being in force amending or substituted for the same, are hereby extended to Siam, with the adaptation following, namely ;—

In the said Acts the Court for Siam is hereby substituted for a Supreme Court in a Colony.

* 19 & 20 Vict. c. 113.

† 22 Vict. c. 20.

‡ 48 & 49 Vict. c. 74.

116. The following Acts, namely :—

“The British Law Ascertainment Act, 1859.” *

“The Foreign Law Ascertainment Act, 1861,” † or so much thereof as is for the time being in force, and any enactment for the time being in force, amending or substituted for the same, are hereby extended to Siam, with the adaptation following, namely :—

In the said Acts the Court for Siam is hereby substituted for a Superior Court in a Colony.

117. “The Public Authorities Protection Act, 1893,” ‡ shall extend and apply to Siam, as if Siam were therein mentioned in place of the United Kingdom, and as if this Order and any other Order relating to Siam, and any Regulations or Rules made under any such Order were therein referred to, in addition to any Act of Parliament.

118. The Court for Siam may, if it thinks fit, order that a Commission do issue for examination of witnesses at any place out of Siam on oath, by interrogatories or otherwise, and may by order give such directions touching the time, place, and manner of the examination, or anything connected therewith, as to the Court appear reasonable and just.

PART VI.—BILLS OF SALE.

119. The provisions of this Order relating to bills of sale—

- (1.) Apply only to such bills of sale executed by British subjects as are intended to affect chattels in Siam ;
- (2.) Do not apply to bills of sale given by sheriffs or others under or in execution of process authorising seizure of chattels.

120.—(1.) Every bill of sale must conform with the following rules (namely) :—

- (a.) It must state truly the name, description, and address of the grantor.
- (b.) It must state truly the consideration for which it is granted.
- (c.) It must have annexed thereto or written thereunder an inventory of the chattels intended to be comprised therein.
- (d.) Any defeasance, condition, or declaration of trust affecting the bill not contained in the body of the bill must be written on the same paper as the bill.
- (e.) The execution of the bill must be attested by a credible witness, with his address and description.

* 22 & 23 Vict. c. 63.

† 24 & 25 Vict. c. 11.

‡ 56 & 57 Vict. c. 61.

(2.) Otherwise, the bill is void in Siam to the extent following, but not further (that is to say) :—

- (a.) In the case of failure to conform with the rule respecting an inventory, as far as regards chattels omitted from the inventory ; and
- (b.) In any other case, wholly.

(3.) The inventory, and any defeasance, condition, or declaration as aforesaid, respectively, is for all purposes deemed part of the bill.

121. A bill of sale conforming, or appearing to conform, with the foregoing rules, may be registered, if it is intended to affect chattels in Siam, at the Consulate of the Consular district wherein the chattels are ; within the respective time following and not afterwards (namely) :—

- (1.) Within fourteen days after its execution, where it is executed in the Consular district wherein the chattels are ;
- (2.) Within two months after its execution, where it is executed in Siam elsewhere than in that Consular district ;
- (3.) Within six months after its execution, where it is executed elsewhere than in Siam.

122. Registration is made as follows : The original and a copy of the bill of sale, and an affidavit verifying the execution, and the time and place of execution, and the attestation thereof, and verifying the copy, are brought into the proper office of the Consulate ; and the copy and affidavit are left there.

123. If a bill of sale is not registered at a place and within the time by this Order appointed and allowed for registration thereof, it is, from and after the expiration of that time, void in Siam to the extent following, but not further (that is to say) :—

- (1.) As against trustees or assignees of the estate of the grantor, in or under bankruptcy, liquidation, or assignment for benefit of creditors ; and
- (2.) As against all sheriffs and others seizing chattels under process of any Court, and any person on whose behalf the seizure is made ; but only
- (3.) As regards the property in, or right to, the possession of such chattels comprised in the bill as, at or after the filing of the petition for bankruptcy or liquidation, or the execution of the assignment, or the seizure, are in the grantor's possession, or apparent possession.

124. Registered bills of sale affecting the same chattels have as among themselves priority in order of registration.

125. Chattels comprised in a registered bill of sale are not in the possession, order, or disposition of the grantor within the law of bankruptcy.

126. If in any case there is an unregistered bill of sale, and within or on the expiration of the time by this Order allowed for registration thereof, a subsequent bill of sale is granted affecting the same or some of the same chattels, for the same or part of the same debt, then the subsequent bill is, to the extent to which it comprises the same chattels and is for the same debt absolutely void, unless the Court is satisfied that the subsequent bill is granted in good faith for the purpose of correcting some material error in the prior bill, and not for the purpose of unlawfully evading the operation of this Order.

127. The registration of a bill of sale must be renewed once at least every five years.

128. Renewal of registration is made as follows: An affidavit stating the date of and parties to the bill of sale; and the date of the original registration, and of the last renewal, and that the bill is still a subsisting security, is brought in to the proper office of the Consulate of original registration, and is left there.

129. If the registration of a bill of sale is not so renewed in any period of five years, then on and from the expiration of that period the bill is deemed to be unregistered.

130. The provisions of this Order relating to renewal apply to bills of sale registered under the Orders in Council repealed by this Order.

131. A transfer or assignment of a registered bill of sale need not be registered; and renewal of registration is not necessary by reason only of such a transfer or assignment.

132. Where the time for registration or renewal of registration of a bill of sale expires on a Sunday, or other day on which the office for registration is closed, the registration or renewal is valid if made on the first subsequent day on which the office is open.

133. If in any case the Court for Siam is satisfied that failure to register or to renew the registration of a bill of sale in due time, or any omission or misstatement connected with registration or renewal, was accidental or inadvertent, the Court may, if it thinks fit, order the failure, omission, or misstatement to be rectified in such manner and on such terms, if any, respecting security, notice by advertisement or otherwise, or any other matter, as the Court thinks fit.

134. The provisions of this Order apply to a bill of sale executed before the commencement of this Order.

135. The power conferred on the Judge of the Court for Siam by this Order of framing Rules from time to time, extends to the framing of Rules for prescribing and regulating the making and keeping of indexes, and of a general index, to the registers of bills of sale, and searches in those indexes, and other particulars connected with the making, keeping, and using of those registers and indexes, and for authorising and regulating the unregistering

of any bill of sale, or the registering of any release or satisfaction in respect thereof.

PART VII.—KING'S REGULATIONS.

136. The Minister shall have power to make Regulations (to be called King's Regulations) for the following purposes, that is to say :—

- (a.) For the peace, order, and good government of British subjects within Siam in relation to matters not provided for by this Order.
- (b.) For securing the observance of any Treaty for the time being in force relating to any place within Siam, or of any native or local law or custom, whether relating to trade, commerce, revenue, or any other matter.
- (c.) For preventing the importation or exportation in British ships or by British subjects of any munitions of war, or any parts of ingredients thereof, where it appears to the Minister that such munitions of war are intended or are likely to be used against any Power with which His Majesty is at peace, or against His Majesty.
- (d.) For requiring Returns to be made of the nature, quantity, and value of articles exported from or imported into his district, or any part thereof, by or on account of any British subject who is subject to this Order, or in any British ship, and for prescribing the times and manner at or in which, and the persons by whom, such Returns are to be made.

(2.) Any Regulations made under this Article may provide for forfeiture of any goods, receptacles, or things in relation to which, or to the contents of which, any breach is committed of such Regulations, or of any Treaty or any native or local law or custom, the observance of which is provided for by such Regulations.

(3.) Any person committing a breach of any such Regulations shall, in addition to any forfeiture prescribed thereby, be liable, on conviction, to imprisonment for a period not exceeding three months, or to a fine, or to both.

(4.) Any fine imposed for a breach of Regulations shall not exceed 50*l.*; provided that where the breach is of any Regulation relating to customs law, or to the importation or exportation of any goods, the fine may extend to a sum equivalent to treble the value of the goods in relation to which the breach is committed.

137.—(a.) Regulations made under this Order shall not have effect unless and until they are approved by a Secretary of State—save that, in case of urgency declared in any such Regulations, the same shall take effect before that approval, and shall continue to have effect unless and until they are disapproved by a Secretary of State, and until notification of that disapproval has been received and published by His Majesty's Minister.

(b.) That approval, where given, shall be conclusive, and the validity or regularity of any Regulations so approved shall not be called in question in any legal proceeding whatever.

138.—(1.) All Regulations made under this Order, whether imposing penalties or not, shall be printed, and a printed copy thereof shall be affixed, and be at all times kept exhibited conspicuously in the public office of each Consulate in Siam.

(2.) Printed copies of the Regulations shall be kept on sale at such reasonable price as His Majesty's Minister from time to time directs.

(3.) A printed copy of any Regulations purporting to be made under this Order, and to be certified under the hand of the Minister, or under the hand and Consular seal of one of His Majesty's Consular officers in Siam, shall be conclusive evidence of the due making of such Regulations.

139. The respective powers aforesaid extend to the making of Regulations for the governance, visitation, care, and superintendence of prisons in Siam, and for the infliction of corporal or other punishment on prisoners committing offences against the rules or discipline of a prison; but the provisions of this Order respecting penalties, and respecting the printing, affixing, exhibiting and sale of Regulations, and the mode of trial of charges of offences against Regulations, do not apply to Regulations respecting prisons and offences of prisoners.

PART VIII.—REGISTRATION.

140. A register of British subjects shall be kept in the office of every Consulate in Siam.

141. Every British subject, resident or arriving in Siam, being of the age of 21 years or upwards, or being married, or a widower or widow, though under that age, may, subject to the provisions of this Order, be registered in a Consular register.

142. The registration of a man shall comprise the registration of his wife, or wives, if living with him; and the registration of the head of a family shall comprise the registration of all females and minors, being his relatives, in whatever degree, living under the same roof with him at the time of his registration.

143. A British subject resident in Siam shall not be registered elsewhere than in the register of the Consular district in which he resides; but a person arriving in Siam may be registered either in the register of the Consular district in which he first arrives, or in that of the district in which he goes to reside.

144. A person arriving in Siam, and not already registered, must apply for registration within one month after arrival; a person resident in Siam must apply for registration in January in every year: Provided that a person who fails to obtain registration within the time so limited may be registered at any

time if he excuses his failure to the satisfaction of the Consular officer.

145. A person registered in any register of British subjects established under any Order in Council repealed by this Order, shall be registered under the provisions of this Order, unless the Consular officer is satisfied, after inquiry, that the previous registration was erroneous, or that such person is not entitled to registration under the provisions of this Order.

146. The Consular officer shall on every registration give to the person registered a certificate of registration signed by him, and sealed with his Consular seal.

147. The name of a wife, if her registration is under the provisions of this Order, comprised in her husband's, shall be indorsed on the husband's certificate.

148. The names and descriptions of females and minors, whose registration is under the provisions of this Order comprised in that of the head of a family, shall be indorsed on the certificate of the head of a family.

149. Every person applying to be registered under this Order shall, unless excused by the Consular officer, attend personally for that purpose at the Consulate on each occasion of registration.

150. Every person shall, on every registration of himself, pay a fee of 2s. 6d., or such other fee as the Secretary of State from time to time appoints. The amount of the fee may be uniform for all persons, or may vary according to the position and circumstances of different classes if the Secretary of State from time to time so directs, but may not in any case exceed 5s.

151. If any British subject fails to obtain registration under the provisions of this Order, he shall not be entitled to be recognised or protected as a British subject in Siam, but he shall, although not registered, be subject to the jurisdiction of His Majesty's Consular Courts in Siam.

Provisions affecting particular Classes of British Subjects.

152. A person, not of Asiatic descent, arriving in Siam and applying to be registered as a British subject, shall be so registered if the Consular officer is satisfied, after such inquiry as he may deem fit, that he is entitled to the status of a British subject.

153. A person of Asiatic descent arriving in Siam and applying to be registered as a British subject, shall be so registered if he (a) produces a passport as a British subject from British India or a British possession; or (b) files an affidavit or sworn declaration showing that he was born within His Majesty's dominions or within the territory of any Prince or State in India under the suzerainty or in alliance with His Majesty, or that he has been naturalised in the United Kingdom; and (c) in either case gives satisfactory evidence of his identity

154. A person born in Siam, being the child of a person of Asiatic descent who arrived in Siam, may be registered as a British subject if it is proved that the father (*a*) was registered as a British subject at the time of the child's birth : or (*b*) being entitled was prevented from being so registered by causes for which he was not responsible.

Any child of a person registered under the provisions of this Article shall not be entitled to be registered as a British subject by reason only that his father and grandfather were so registered.

155. A person of Asiatic descent, being a native of Upper Burmah or of the British Shan States, shall not be registered as a British subject if it appears that he arrived in Siam before the 1st January, 1886, and has become domiciled there.

156. A woman, being the widow of a person of Asiatic descent, who was in his lifetime registered as a British subject, shall be registered as a British subject if her name appears on the last certificate given to her husband before his death, but not otherwise.

157. The Consular officer may, without fee, register any British subjects, being minors, living in the houses of foreigners or Siamese subjects.

All registers kept under any Order repealed by this Order shall continue in force until superseded by registers kept under this Order.

PART IX.—INTERNATIONAL COURT.

Whereas by a Treaty made the 3rd day of September, 1883, between Her late Majesty Queen Victoria and His Majesty the King of Siam, it was amongst other things agreed as follows :—

“Article VIII. His Majesty the King of Siam will appoint a proper person or proper persons to be a Commissioner and Judge, or Commissioners and Judges, in Chieng-mai for the purposes hereinafter mentioned. Such Judge or Judges shall, subject to the limitations and provisions contained in the present Treaty, exercise civil and criminal jurisdiction in all cases arising in Chiengmai, Lakon, and Lampoonchi, between British subjects, or in which British subjects may be parties as complainants, accused, plaintiffs or defendants according to Siamese Law : provided always that in all such cases the Consul or Vice-Consul shall be entitled to be present at the trial, and to be furnished with copies of the proceedings, which, when the defendant or accused is a British subject, shall be supplied free of charge, and to make any suggestions to the Judge or Judges which he may think proper in the interests of justice : provided also that the Consul or Vice-Consul shall have power at any time before judgment, if he shall think proper in the interests of justice, by a written requisition under his hand, directed to the Judge or Judges, to signify his desire that any case in which

both parties are British subjects, or in which the accused or defendant is a British subject, be transferred for adjudication to the British Consular Court at Chiengmai, and the case shall thereupon be transferred to such last-mentioned Court accordingly, and be disposed of by the Consul or Vice-Consul, as provided by Article II. of the Supplementary Agreement of the 13th May, 1856:”*

And whereas the IXth Article of the said Treaty† provides for the decision of appeals from the said Commissioners or Judges ;

And whereas in pursuance of the said Treaty His Majesty the King of Siam has from time to time appointed Commissioners or Judges for the purposes mentioned in the said Article, and civil and criminal jurisdiction has been and is exercised in Chiengmai subject to the limitations and provisions contained in the said Treaty :

And whereas in pursuance of powers reserved in the said Treaty, it was agreed between Her said Majesty and His Majesty the King of Siam that the limits within which the jurisdiction of the said Commissioners and Judges under, and for the purposes of, the said Treaty shall be extended to the Provinces of Muang Nan, Phre, Muang Thon, Raheng, Sawankaloke, Sukotai, Utaradit, and Pichai :

And whereas such limits of jurisdiction may hereafter be further extended :

It is hereby ordered as follows :—

158. In this Part the expression “the International Court” means the Court of any Commissioners or Judges exercising jurisdiction at Chiengmai in pursuance and under the provisions of the said recited Treaty as modified by any subsequent Agreement, whether made before or after the passing of this Order.

The expression “limits of the International Court” means the provinces and parts of provinces to which the jurisdiction of that Court for the time being extends.

159. With respect to any civil or criminal case arising within the limits of the International Court between British subjects, or in which British subjects may be parties as complainants, accused, plaintiffs or defendants, the principal Order shall not operate or have any effect so long as the said Treaty continues in force, unless and until such case shall have been transferred to the District Court at Chiengmai in manner provided by the said Treaty.

160. Where a case is so transferred, the District Court shall give such directions as seem proper for its determination, having regard to the proceedings (if any) in the International Court.

In a criminal case, if the accused is handed over by the International Court in custody, he may be detained in custody as if on the day on which he is handed over he had been arrested under a warrant of the District Court.

* Printed in “Hertslet's Treaties,” Vol. x., p. 565.

† Printed in “Hertslet's Treaties,” Vol. xv., p. 815.

161. Where, in pursuance of the IXth Article of the said Treaty, an appeal is brought to Bangkok from any Siamese Judge or Judges, Commissioner or Commissioners, the Minister shall take such steps as may be directed by the Secretary of State, in order that the final decision on appeal may be recorded at Bangkok and duly transmitted to the Court from which the appeal is brought, and in order that effect may be given thereto by such Court.

PART X.—FOREIGN SUBJECTS AND TRIBUNALS.

162.—(1.) Where a Siamese or foreigner desires to institute or take in the Court an action against a British subject, or a British subject desires to institute or take in the Court an action against a foreigner, the Court shall entertain the same, and shall hear and determine it, either by the Court sitting alone, or, if all parties desire, or the Court, having regard to its jurisdiction, thinks fit to direct, a trial with a jury or assessors, then with a jury or assessor, but in all other respects according to the ordinary course of the Court.

(2.) Provided that the Siamese or foreigner, if so required by the Court, first obtains and files in the Court the consent in writing of the competent authority on behalf of his own nation to his submitting, and does submit, to the jurisdiction of the Court, and, if required by the Court, give security to the satisfaction of the Court, and to such reasonable amount as the Court thinks fit, by deposit or otherwise, to pay fees, damages, costs, and expenses, and abide by and perform such decision as shall be given by the Court or on appeal.

(3.) A cross-action shall not be brought in the Court against a plaintiff, being a Siamese or foreigner.

(4.) Where a Siamese or foreigner obtains in the Court an order against a defendant being a British subject, and in another suit that defendant is plaintiff and the Siamese or foreigner is defendant, the Court may, if it thinks fit, on the application of the British subject, stay the enforcement of the order pending that other suit, and may set off any amount ordered to be paid by one party in one suit against any amount ordered to be paid by the other party in the other suit.

(5.) Where a plaintiff, being a Siamese or foreigner, obtains an order of the Court against two or more defendants being British subjects jointly, and in another action one of them is plaintiff and the Siamese or foreigner is defendant, the Court may, if it thinks fit, on the application of the British subject, stay the enforcement of the order pending that other action, and may set off any amount ordered to be paid by one party in one action against any amount ordered to be paid by the other party in the other action, without prejudice to the right of the British subject to require contribution from his co-defendants under the joint liability.

(6.) Where a Siamese or foreigner is co-plaintiff in a suit with a British subject who is within the particular jurisdiction, it shall

not be necessary for the foreigner to give security for costs, unless the Court so directs, but the co-plaintiff British subject shall be responsible for all fees and costs.

163.—(1.) Where it is proved that the attendance within the particular jurisdiction of a British subject to give evidence, or for any other purpose connected with the administration of justice, is required in a Court of Siam or before a Siamese judicial officer or in a Court or before a judicial officer of a State in amity with His Majesty, the Court may, if it thinks fit, in a case and in circumstances in which the Court would require his attendance before the Court, order that he do attend in such Court, or before such judicial officer, and for such purpose as aforesaid.

(2.) A District Court, however, cannot so order attendance at any place beyond its particular jurisdiction.

(3.) If the person ordered to attend, having reasonable notice of the time and place at which he is required to attend, fails to attend accordingly, and does not excuse his failure to the satisfaction of the Court, he shall (independently of any other liability) be guilty of an offence against this order.

164. When a British subject invokes or submits to the jurisdiction of a Siamese or foreign Tribunal, and engages in writing to abide by the decision of such Tribunal, or to pay any fees or expenses ordered by such Tribunal to be paid by him, the Court for Siam or any District Court may, on such evidence as it thinks fit to require, enforce payment of such fees and expenses in the same manner as if they were fees payable in a proceeding by such person in that Court, and shall pay over and account for the same when levied to the proper Siamese or foreign authority, as the Court may direct.

PART X.—MISCELLANEOUS.

165. Where, by virtue of any Imperial Act or of this Order or otherwise, any provision of any Imperial Acts, or of any Law or of any Orders in Council other than this Order, are applicable in Siam, or any Form, Regulation, or procedure prescribed or established by or under any such Act or Law or Order, are made applicable for any purpose of this Order, such Act, Law, Order, Form, Regulation, or procedure shall be deemed applicable so far only as the constitution and jurisdiction of the Courts and the local circumstances permit; and, for the purpose of facilitating application, may be construed or used with such alterations and adaptations as may be necessary, and anything required to be done by, to, or before any Court, Judge, officer, or authority may be done by, to, or before a Court, Judge, officer, or authority having the like or analogous functions, or by, to, or before any officer designated by the Secretary of State or by the Court (as the case may require) for that purpose; and the seal of the Court may be substituted for any other seal; and in case any difficulty occurs in the application, it shall be lawful for the Secretary of State to direct by, to, or before whom and in what manner anything is

to be done, and such Act, Law, Order, Form, Regulation, or procedure shall be construed accordingly.

166. Nothing in this Order shall deprive the Court of the right to observe and to enforce the observance of, or shall deprive any person of the benefit of, any reasonable custom existing in Siam, unless this Order contains some express and specific provision incompatible with the observance thereof.

167. Nothing in this Order shall prevent any Consular officer in Siam from doing anything which His Majesty's Consuls in the dominions of any other State in amity with His Majesty are, for the time being, by law, usage, or sufferance, entitled or enabled to do.

168. Section 48 of "The Conveyancing and Law of Property Act, 1881" * (which relates to the deposit of instruments creating powers of attorney in the Central Office of the Supreme Court in England or Ireland), shall apply to Siam with these modifications, that is to say: the Office of the Court of Siam is substituted for the Central Office, and Rules of Court under this Order are substituted for General Rules.

169. Sums of money, fines, forfeitures, or fees payable under this Order shall be calculated and paid in English money, or with the consent of the Court, in its equivalent in local currency, or bills of exchange approved by the Court.

170. Except as in this Order otherwise provided, all fees, dues, fines, and other receipts under this Order shall be carried to the public account, and shall be accounted for and paid as the Secretary of State, with the concurrence of the Treasury, directs.

171. Not later than the 31st March in each year, the Judge shall send to the Secretary of State a report on the operation of this Order up to the 31st January in that year, showing for the then last twelve months the number and nature of the proceedings, criminal and civil, taken in the Courts under this Order, and the result thereof, and the number and amount of fees received, and containing an abstract of the registration list, and such other information, and being in such form, as the Secretary of State from time to time directs.

172. Each District Court shall at such time as may be fixed by Rules of Court furnish to the Court for Siam an annual report of every case, civil and criminal, brought before it, in such form as the Court for Siam directs.

173.—(1.) A printed copy of this Order shall be always kept exhibited in a conspicuous place in each Consular office and in each Court-house.

(2.) Printed copies shall be sold at such reasonable price as the Minister directs.

* 44 & 45 Vict. c. 41,

(3.) Judicial notice shall be taken of this Order, and of the commencement thereof, and of the appointment of Consuls, and of the constitution and limits of the Courts and districts, and of Consular seals and signatures, and of any Rules made or in force under this Order, and no proof shall be required of any of such matters.

The provisions of "The Evidence Act, 1851" (14 & 15 Vict. cap. 99), sections 7 and 11, relating to the proof of judicial and other documents, shall extend and be applied for all purposes as if the Courts, districts, and places to which this Order applies were in a British Colony.

174.—(1.) The Orders in Council mentioned in the Schedule to this Order are hereby repealed, but this repeal shall not—

- (i.) Affect the past operation of those Orders, or any of them, or any appointment made, or any right, title, obligation, or liability accrued, or the validity or invalidity of anything done or suffered under any of those Orders, before the making of this Order ;
- (ii.) Interfere with the institution or prosecution of any proceeding or action, criminal or civil, in respect of any offence committed against, or forfeiture incurred or liability accrued under or in consequence of any provision of any of those Orders, or any Regulation made thereunder ;
- (iii.) Take away or abridge any protection or benefit given or to be enjoyed in relation thereto.

(2.) Notwithstanding the repeal of the Orders aforesaid, or any other thing in this Order, every Regulation, appointment, and other thing in this Article mentioned shall continue and be as if this Order had not been made ; but so that the same may be revoked, altered, or otherwise dealt with under this Order, as if it had been made or done under this Order.

(3.) Criminal or civil proceedings begun under any of the Orders in Council repealed by this Order, and pending at the time when this Order comes into operation, shall, from and after that time, be regulated by the provisions of this Order, as far as the nature and circumstances of each case admits.

(4.) Lists of jurors and assessors in force at the passing of this Order shall continue in force until revised and settled under the provisions of this Order.

175.—(1.) This Order shall take effect at the expiration of one month after it is first exhibited in the public office of the Court for Siam.

(2.) For that purpose the Judge shall forthwith, on the receipt by him from the Minister of a certified printed copy of this Order, cause the same to be affixed and exhibited conspicuously in that office.

(3.) He shall also keep the same so affixed and exhibited during one month from that first exhibition.

(4.) Notice of the time of that first exhibition shall, as soon as practicable, be published at each of the Provincial Consulates in such manner as the Court for Siam may direct.

(5.) Proof shall not in any proceeding or matter be required that the provisions of this Article have been complied with, nor shall any act or proceeding be invalidated by any failure to comply with any of such provisions.

(6.) The day on which this Order so takes effect is in this Order referred to as the commencement of this Order.

(7.) Where this Order confers powers to make any appointment, Rules, or Regulations, or to do any other thing for the purposes of this Order, that power may be exercised at any time after the passing of this Order, so, however, that any such appointment, Rules, or Regulations shall not take effect before the commencement of this Order.

A. W. FitzRoy.

Schedule.

Orders in Council Repealed.

The Siam Order in Council, 1889.*

The Siam Order in Council, 1898.†

The Siam (Registration) Order in Council, 1900.‡

11. Turkey.‡

ORDER IN COUNCIL AS TO CONSULAR DUES ON BRITISH
MERCHANT SHIPS IN THE OTTOMAN EMPIRE.§

At the Court at Windsor, the 13th day of May, 1875.

PRESENT :

The Queen's Most Excellent Majesty in Council.

Whereas Her Majesty the Queen has power and jurisdiction within the dominions of the Sublime Ottoman Porte :

Now, therefore, Her Majesty, by virtue and in exercise of the powers in this behalf by the Foreign Jurisdiction Acts, or otherwise in Her vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

* Printed in Statutory Rules and Orders Revised (1st Edition), Vol. 3, p. 818.

† Printed in Statutory Rules and Orders, 1898, at p. 409, and 1900, at p. 288 respectively.

‡ By Order in Council, dated December 31, 1883 (printed in Statutory Rules and Orders Revised (1st Edition), Vol. 3, p. 697), British Consular Jurisdiction was abolished in Tunis as regards matters justiciable by French tribunals. Tunis is now a French Protectorate. See Treaty between France and Tunis of May 12, 1881, printed in "Hertslet's State Papers," Vol. 72, p. 247.

§ Cyprus was exempted from the operation of this Order by Order in Council of September 14, 1878, printed at p. 304: above.

1. This Order shall commence and have effect from and immediately after the expiration of thirty days from the date of its publication in the *London Gazette*.*

2. Every Order in Council relating to the matters comprised in this Order is hereby repealed; but this repeal shall not affect any liability accrued under any such Order, or interfere with the institution or prosecution of any proceeding in respect of any such liability.

3. In this Order—

“The Ottoman dominions” means the dominions of the Sublime Ottoman Porte.

“Consul” includes Consul-General and Vice-Consul.

“British merchant ship” means a merchant ship being a British ship within the Merchant Shipping Act, 1854,† and the Acts amending the same.

4. Her Majesty’s Consuls in the Ottoman dominions may levy on British merchant ships entering ports in their respective Consulates, dues not exceeding the rate of twopence a ton.

5. The produce of the dues levied under this Order shall be applied towards the establishment, maintenance, and support, in the Ottoman dominions, of British hospitals; and the dues shall be called hospital dues.

6. One of Her Majesty’s Principal Secretaries of State may, from time to time, by writing under his hand, issue such instructions as to him seem fit, for the following purposes, or any of them; and may from time to time revoke or alter the same (that is to say):—

For fixing (within the limit of twopence a ton) the rate per ton at which dues are to be levied under this Order at any port:

For exempting any ship in respect whereof, within any defined period, dues have once been paid, from any further payment thereof:

For regulating the application of the produce of the dues:

For limiting the extent to which any Consul shall exercise jurisdiction over British subjects in the Ottoman dominions in any matter relating to the dues.

And the Right Honourable the Earl of Derby, one of Her Majesty’s Principal Secretaries of State, is to give the necessary directions herein accordingly.

* This Order was Gazetted, May 14, 1875.

† 17 & 18 Vict. c. 104; now repealed and consolidated with other Acts by the Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60).

THE OTTOMAN ORDER IN COUNCIL, 1899.

1899. No. 595.

At the Court at Osborne House, Isle of Wight, the 8th day of August, 1899.

PRESENT :

The Queen's Most Excellent Majesty.

Lord Chancellor.
Lord President.

Lord James of Hereford.
Sir Fleetwood Edwards.

Whereas by Treaty, Capitulation, Grant, usage, sufferance, and other lawful means, Her Majesty the Queen has jurisdiction within the dominions of the Ottoman Porte :

Now, therefore, Her Majesty, by virtue and in exercise of the powers in this behalf by "The Foreign Jurisdiction Act, 1890,"* or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

Part I.—Preliminary and General.

1. This Order is divided into parts, as follows :—

Parts.	Subject.	Articles.
I.	Preliminary and General	1-6
II.	Constitution and Powers of Courts	7-24
III.	Criminal Matters	25-62
IV.	Civil Matters	63-135
V.	Procedure, Criminal and Civil	136-149
VI.	Ottoman and Foreign Subjects and Tribunals	150-157
VII.	Miscellaneous	158-172
	Schedule of Repealed Orders	

2. The limits of this Order are the dominions of the Sublime Ottoman Porte,† but, as respects Egypt, do not extend to any place south of the 22nd parallel of north latitude ; and the expressions "Ottoman Dominions" and "Egypt" shall, for the purposes of this Order, be construed accordingly.

3. In the construction of this Order the following words and expressions have the meanings hereby assigned to them, unless there be something in the subject or context repugnant thereto, that is to say :—

"Administration" means letters of administration, including the same with will annexed or granted for special or limited purposes, or limited in duration.

* 53 & 54 Vict. c. 37.

† Tunis is now a French Protectorate. See note ‡, p. 740 above.

- “The Ambassador” means Her Majesty’s Ambassador, and includes Chargé d’Affaires or other Chief Diplomatic Representative of Her Majesty in the Ottoman dominions for the time being.
- “Agent for Egypt” means Her Majesty’s Agent and Consul-General for Egypt, and includes any person temporarily appointed to act for that officer.
- “British merchant-ship” means a merchant ship being a British ship within the meaning of “The Merchant Shipping Act, 1894.”*
- “British subject” includes a British-protected person, that is to say, a person who either (a) is a native of any Protectorate of Her Majesty, and is for the time being in the Ottoman dominions ; or (b) by virtue of Section 15 of “The Foreign Jurisdiction Act, 1890,” or otherwise, enjoys Her Majesty’s protection in the Ottoman dominions.
- “Consular district” means the district in and for which a Consular officer usually acts, or for which he may be authorised to act, for all or any of the purposes of this Order by authority of the Secretary of State.
- “Consular officer” means a Consul-General, Consul, Vice-Consul, Consular Agent, or pro-Consul of Her Majesty, resident in the Ottoman dominions, including a person acting temporarily, with the approval of the Secretary of State, as or for a Consul-General, Consul, Vice-Consul, or Consular Agent of Her Majesty so resident ; and—
- (a.) “Commissioned Consular officer” means a Consular officer holding a commission of Consul-General, Consul, or Vice-Consul from Her Majesty, including a person acting temporarily, with the approval of the Secretary of State, as or for such a commissioned Consular officer ;
- (b.) “Uncommissioned Consular officer” means a Consular officer not holding such a commission, including a person acting temporarily, with the approval of the Secretary of State, as or for such an uncommissioned Consular officer.
- “Consulate” and “Consular office” refer to the Consulate and office of a Consular officer.
- “The Court,” except when the reference is to a particular Court, means any Court established under this Order, subject, however, to the provisions of this Order with respect to powers and local jurisdictions.
- “Foreigner” means a subject or citizen of a State in amity with Her Majesty, other than the Sublime Ottoman Porte.
- “Judge,” in relation to any Court, includes any person temporarily appointed to act as Judge of that Court.
- “Legal practitioner” includes barrister-at-law, advocate,

* 57 & 58 Vict. c. 60.

- solicitor, writer to the Signet, and any person possessing similar qualifications.
- "Lunatic" means idiot or person of unsound mind.
- "Master," with respect to any ship, includes every person (except a pilot) having command or charge of that ship.
- "Month" means calendar month.
- "Oath" and "affidavit," in the case of persons for the time being allowed by law to affirm or declare, instead of swearing, include affirmation and declaration, and the expression "swear," in the like case, includes affirm and declare.
- "Offence" includes crime, and any act or omission punishable criminally in a summary way or otherwise.
- "Office copy" means a copy made under the direction of the Court, or produced to the proper officer of the Court for examination with the original, and examined by him and sealed with the seal of the Court.
- "Ottoman subject" means a subject of the Sublime Ottoman Porte.
- "Ottoman Tribunal" means any Ottoman Tribunal of Commerce, Ottoman Civil Tribunal, or Ottoman Maritime Court, or other Ottoman Tribunal.
- "Ottoman waters" means the territorial waters of the Ottoman dominions.
- "Person" includes Corporation.
- "Pounds" means pounds sterling.
- "Prescribed" means prescribed by Rules of Court.
- "Prosecutor" means complainant or any person appointed or allowed by the Court to prosecute.
- "Proved" means shown by evidence on oath, in the form of affidavit, or other form, to the satisfaction of the Court or Consular officer acting or having jurisdiction in the matter, and "proof" means the evidence adduced in that behalf.
- "Resident" means having a fixed place of abode in the Ottoman dominions.
- "Rules of Court" means rules of Court made under the provisions of this Order.
- "Secretary of State" means one of Her Majesty's Principal Secretaries of State.
- "Ship" includes any vessel used in navigation, however propelled, with her tackle, furniture, and apparel, and any boat or other craft.
- "The Treasury" means the Commissioners of Her Majesty's Treasury.
- "Treaty" includes any Convention, Agreement, or Arrangement, made by or on behalf of Her Majesty with any State or Government, King, Chief, people, or tribe, whether His Majesty the Sultan is or is not a party thereto.
- "Will" means will, codicil, or other testamentary instrument.

Expressions used in any rules, regulations, or orders made under this Order shall, unless a contrary intention appears, have the same respective meanings as in this Order.

4.—(1.) Words importing the plural or the singular may be construed as referring to one person or thing, or to more than one person or thing, and words importing the masculine as referring to the feminine (as the case may require).

(2.) Where this Order confers any power or imposes any duty, then, unless a contrary intention appears, the power may be exercised and the duty shall be performed from time to time as occasion requires.

(3.) Where this Order confers a power, or imposes a duty on, or with respect to, a holder of an office, as such, then, unless a contrary intention appears, the power may be exercised and the duty shall be performed by, or with respect to, the holder for the time being of the office or the person temporarily acting for the holder.

(4.) Where this Order confers a power to make any rules, regulations, or orders, the power shall, unless a contrary intention appears, be construed as including a power exercisable in the like manner and subject to the like consent and conditions, if any, to rescind, revoke, vary, or amend the rules, regulations or orders.

(5.) This article shall apply to the construction of any rules, regulations, or orders made under this Order, unless a contrary intention appears.

5. The jurisdiction conferred by this Order extends to the persons and matters following, in so far as by Treaty, grant, usage, sufferance, or other lawful means, Her Majesty has jurisdiction in relation to such matters and things, that is to say :—

- (i.) British subjects, as herein defined, within the limits of this Order.
- (ii.) The property and all personal or proprietary rights and liabilities within the said limits of British subjects, whether such subjects are within the said limits or not.
- (iii.) Ottoman subjects and foreigners in the cases and according to the conditions specified in this Order and not otherwise.
- (iv.) Foreigners with respect to whom any State, King, Chief, or Government, whose subjects, or under whose protection they are, has by any Treaty as herein defined or otherwise agreed with Her Majesty for, or consented to, the exercise of power or authority by Her Majesty.
- (v.) British ships with their boats, and the persons and property on board thereof, or belonging thereto, being within the Ottoman dominions.

6. All Her Majesty's jurisdiction exercisable in the Ottoman dominions for the hearing and determination of criminal or civil matters, or for the maintenance of order, or for the control or

administration of persons or property, or in relation thereto, shall be exercised under and according to the provisions of this Order, and not otherwise.

Part II.—Constitution and Powers of Courts.

7.—(1.) There shall be a Court styled “Her Britannic Majesty’s Supreme Consular Court for the Dominions of the Sublime Ottoman Porte” (in this Order referred to as the Supreme Court, and comprised in the term “the Court”).

(2.) Subject to the provisions of this Order there shall be two Judges of the Supreme Court, that is to say, a Judge, and an Assistant Judge, who shall respectively be appointed by Her Majesty by warrant under Her Royal Sign Manual.

Each shall be at the time of his appointment a member of the Bar of England, Scotland, or Ireland, of not less than seven years’ standing.

(3.) Each of the Judges may hold a Commission from Her Majesty as Consul-General or Consul.

(4.) The Judges shall sit together for the purposes described in this Order, and the Supreme Court so constituted is hereinafter in this Order referred to as “the Full Court.”

(5.) There shall be attached to the Supreme Court a Registrar, a Marshal, and so many officers and clerks under such designations as the Secretary of State thinks fit; but unless and until the Secretary of State otherwise appoints, the Assistant Judge shall act as Registrar of the Supreme Court.

(6.) In case of the death, illness, or other incapacity, or of the absence or intended absence from the Consular district of Constantinople of either of the Judges, the Ambassador may, if he thinks fit, appoint a fit person to be Acting Judge, or Acting Assistant Judge, as the case may be. If the appointment has to be made to the office of Acting Judge, the Assistant Judge, if present and not incapacitated, shall, unless the Secretary of State otherwise directs, be appointed, and if he is so appointed, the Ambassador may, if he thinks fit, appoint a fit person to act as Assistant Judge.

(7.) The Secretary of State may temporarily attach to the Supreme Court such persons, being Consular officers, as he thinks fit.

A person thus attached shall discharge such duties in connection with the Court as the Judge, with the approval of the Secretary of State, may direct.

8.—(1.) Every commissioned Consular officer, with such exceptions (if any) as the Secretary of State thinks fit to make, shall for and in his own Consular district hold and form a Court, in this Order referred to as a Provincial Court.

(2.) Every uncommissioned Consular officer, with such exceptions (if any) as the Supreme Court, by writing under the hand of the Judge and the seal of that Court, thinks fit to make, shall for and in his own Consular district, subject to the provisions

of this Order, hold and form a Court, in this Order referred to as a Local Court.

(3.) Every Provincial and Local Court shall be styled “Her Britannic Majesty’s Consular Court of Smyrna” (or as the case may be).

(4.) Every reference in this Order to a Provincial Court in relation to a Local Court shall be deemed to be a reference to a Provincial Court held by the commissioned Consular officer, under whose superintendence the uncommissioned Consular officer holding the Local Court acts.

(5.) Every Provincial Court shall, with the approval of the Supreme Court, and every Local Court may, with the approval of the Provincial Court, appoint a competent person, or persons, to perform such duties and to exercise such powers as are by this Order and any Rules of Court imposed or conferred upon the Registrar and Marshal, and any person so appointed shall perform such duties and exercise such powers accordingly.

9.—(1.) The Secretary of State may, when he thinks fit, under his hand, appoint a competent person to act temporarily as Special Judge of the Supreme Court. He shall be a person qualified to be appointed a Judge of the Supreme Court under this Order.

(2.) The Secretary of State may by order assign any case, civil or criminal, and whether pending at or commenced after the commencement of this Order, to be tried by or before the Special Judge, and in relation to any case so assigned, all the powers, authority, and jurisdiction of the Supreme Court shall be vested in and exercised by the Special Judge, and if the order so provides the Judges shall not exercise any jurisdiction therein.

(3.) The Special Judge may, subject to any directions of the Secretary of State, sit in any part of the Ottoman dominions.

(4.) If in any criminal case so assigned the Special Judge is of opinion that a jury or assessors cannot conveniently be obtained, he may act without a jury or assessors.

(5.) If any civil case so assigned, whether before or after the commencement of this Order, is set down for rehearing, the same shall be reheard before the Special Judge, with or without either of the Judges of the Supreme Court, or, when the attendance of the Special Judge seems no longer necessary, before the full Court, as the Secretary of State may by the order or any subsequent order direct.

(6.) The remuneration and expenses of any special Judge shall be paid as the Secretary of State, with the consent of the Treasury, directs.

10. The Supreme Court shall have a seal, bearing the style of the Court and such device as the Secretary of State approves, but the seal in use at the commencement of this Order shall continue to be used until a new seal is provided.

In each of the Provincial and Local Courts the official seal of the Consular officer shall be used.

11. All Her Majesty’s jurisdiction, civil and criminal, including any jurisdiction by this Order conferred expressly on a Provincial

Court, shall for and within the district of the Consulate of Constantinople be vested exclusively in the Supreme Court as its ordinary original jurisdiction.

12. All Her Majesty's jurisdiction, civil and criminal, not under this Order vested exclusively in the Supreme Court, shall to the extent and in the manner provided by this Order be vested in the Provincial and Local Courts.

Provided that as regards all such matters and cases as come within the jurisdiction of any Egyptian Courts established with the concurrence of Her Majesty, the operation of this Order is hereby suspended until Her Majesty by and with the advice of Her Privy Council shall otherwise order.

13. The Supreme Court shall have in all matters, civil and criminal, an original jurisdiction concurrent with the jurisdiction of the several Provincial and Local Courts to be exercised subject and according to the provisions of this Order.

14. The Supreme Court shall ordinarily sit at Constantinople and as occasion requires at Alexandria or Cairo; but may, on emergency, sit at any other place within the Ottoman dominions, and may at any time transfer its ordinary sittings to any such place as the Secretary of State approves. Under this Article the Judges may sit at the same time at different places, and each sitting shall be deemed to be a sitting of the Supreme Court.

15.—(1.) The Registrars of the Provincial Courts at Alexandria and Cairo respectively shall be also District Registrars of the Supreme Court.

(2.) They shall, subject to Rules of Court, perform the like duties in respect of proceedings of the Supreme Court pending in their respective District Registries, as are performed by the Registrar of the Supreme Court in respect of proceedings pending in the Registry of the Court at Constantinople.

(3.) Summonses for the commencement of actions in the Supreme Court shall be issued by the District Registrars when thereunto required, and all such further proceedings as might be taken and recorded in the Registry of the Supreme Court at Constantinople may be taken and recorded in the District Registry in any actions pending in such District Registries respectively.

(4.) The exercise of powers and performance of duties by District Registries at Alexandria and Cairo shall be subject to the control and direction of the Provincial Courts of Alexandria and Cairo respectively in the same manner and to the same extent, subject to Rules of Court, as the exercise of powers and performance of duties by the Registrar of the Supreme Court at Constantinople are subject to the control and direction of a Judge of the Supreme Court.

Provided that where a Judge of the Supreme Court is present in Alexandria or Cairo the said control and direction shall be exercised exclusively by such Judge.

16. The Judge or under his directions the Assistant Judge of the Supreme Court may visit, in a magisterial or judicial capacity, any place in the Ottoman dominions, and there inquire of, or hear and determine, any case, civil or criminal, and may examine any records or other documents in any Provincial or Local Court, and give directions as to the keeping thereof.

17. A Provincial Court shall have in all matters, civil and criminal, an original jurisdiction, concurrent with the jurisdiction of the several Local Courts (if any) held within its district to be exercised subject and according to the provisions of this Order.

18.—(1.) Where any case, civil or criminal, commenced in a Local Court, appears to that Court to be beyond its jurisdiction, or to be one which for any other reason ought to be tried in the Provincial Court or the Supreme Court, the Local Court shall report the case to the Provincial Court for directions.

(2.) Subject to any directions of the Supreme Court under this Article, a Provincial Court may of its own motion, or on the report of a Local Court, or on the application of any party concerned, require any case, civil or criminal, pending in a Local Court to be transferred to the Provincial Court, or in the case of any such report or application, may direct that the case shall proceed in the Local Court.

(3.) Where any case, civil or criminal, commenced in a Provincial Court, or reported or transferred to that Court under this Article, appears to the Provincial Court to be beyond its jurisdiction, or to be one which for any other reason ought to be tried in the Supreme Court, the Provincial Court shall report the case to the Supreme Court for directions.

(4.) The Supreme Court may of its own motion, or upon the report of a Provincial Court, or on the application of any party concerned, require any case, civil or criminal, pending in any Provincial or Local Court to be transferred to, or tried in, the Supreme Court, or may direct in what Court and in what mode, subject to the provisions of this Order, any such case shall be tried.

19. The Supreme Court, and each Provincial Court shall, in the exercise of every part of its jurisdiction, be a Court of Record.

20.—(1.) Every Provincial and Local Court shall execute any writ or order issuing from the Supreme Court, and shall take security from any person named in a writ or order for his appearance personally or by attorney, and shall, in default of security being given, or when the Supreme Court so orders, send the person on board one of Her Majesty's vessels of war to Constantinople, or such other port as may be named in the order, or, if no vessel of war is available, then on board some British or other fit vessel.

(2.) The order of the Court shall be sufficient authority to the commander or master of the vessel to receive and detain the person, and deliver him up at the port named according to the order.

21. The Supreme Court, and each Provincial and Local Court, shall be auxiliary to one another in all particulars relative to the administration of justice, civil or criminal.

22. Each Provincial and Local Court shall at such time as may be fixed by rules of Court furnish to the Supreme Court an annual report of every case, civil and criminal, brought before it, in such form as the Supreme Court directs.

The report of a Local Court shall be sent through the Provincial Court.

23. Subject to the provisions of this Order, criminal and civil cases may be tried as follows :—

- (a.) In the case of the Supreme Court, by the Court itself, or by the Court with a jury, or with assessors.
- (b.) In the case of a Provincial Court, by the Court itself, or by the Court with assessors.
- (c.) In the case of a Local Court, by the Court itself, without assessors or jury.

24.—(1.) Notwithstanding anything in this Order, the Court shall not exercise any jurisdiction in any proceeding whatsoever over the Ambassador, or over his official or other residences, or his official or other property.

(2.) Notwithstanding anything in this Order, the Court shall not exercise, except with the consent of the Ambassador signified in writing to the Court, any jurisdiction in any proceeding over any person attached to or being a member of, or in the service of, the Embassy.

(3.) If in any case under this Order it appears to the Court that the attendance of the Ambassador, or of any person attached to or being a member of the Embassy, or in being in the service of the Embassy, to give evidence before the Court is requisite in the interest of justice, the Court may address to the Ambassador a request in writing for such attendance.

(4.) A person attending to give evidence before the Court shall not be compelled or allowed to give any evidence or produce any document, if, in the opinion of the Ambassador, signified by him personally or in writing to the Court, the giving or production thereof would be injurious to Her Majesty's service.

(5.) This Article shall apply to Her Majesty's Agency in Egypt, and the foregoing provisions shall for the purpose of this application be read as if "Her Majesty's Agent and Consul-General" were substituted for "the Ambassador," and "Agency" for "Embassy," wherever those words respectively occur.

Part III.—Criminal Matters.

25.—(1.) Except as regards offences against the Capitulations, Articles of Peace, and Treaties between Her Majesty and the Sublime Ottoman Porte, or against any rules and regulations for the observance thereof, or for the maintenance of order among

British subjects in the Ottoman dominions, made by or under the authority of Her Majesty, or against any of the provisions of this Order :—

Any Act that would not by a Court or Justice having criminal jurisdiction in England be deemed an offence in England, shall not, in the exercise of criminal jurisdiction under this Order, be deemed an offence, or be the subject of any criminal proceeding under this Order.

(2.) Subject to the provisions of this Order, criminal jurisdiction under this Order shall, as far as circumstances admit, be exercised on the principles of, and in conformity with, the statute and other law for the time being in force in and for England, and with the powers vested in the Courts of Justice and Justices of the Peace, in England, according to their respective jurisdiction and authority.

26.—(1.) If any person is guilty of an offence against this Order, not distinguished as a grave offence against this Order, he is liable, on summary conviction—

- (i.) To a fine not exceeding 5*l.*, without any imprisonment ;
or
- (ii.) To imprisonment not exceeding one month, without fine ; or
- (iii.) To imprisonment not exceeding fourteen days, with a fine not exceeding 50*s.*

(2.) Imprisonment under this Article is without hard labour.

27.—(1.) If any person is guilty of an offence against this Order, distinguished as a grave offence against this Order, he is liable, on summary conviction before the Supreme Court or a Provincial Court—

- (i.) To a fine not exceeding 10*l.*, without imprisonment ; or
- (ii.) To imprisonment not exceeding two months, without fine ; or
- (iii.) To imprisonment not exceeding one month, with a fine not exceeding 5*l.*

(2.) Imprisonment under this Article is, in the discretion of the Court, with or without hard labour.

28. Every Court may cause to be summoned or arrested, and brought before it, any person subject to, and being within the limits of, its jurisdiction, and charged with having committed an offence cognisable under this Order, and may deal with the accused according to the jurisdiction of the Court and in conformity with the provisions of this Order ; or when the offence is liable and is to be tried in England, to take the preliminary examination, and to commit the accused for trial, and cause or allow him to be taken to England.

29. For the purposes of criminal jurisdiction every offence and cause of complaint committed or arising in the Ottoman dominions shall be deemed to have been committed or to have arisen, either in the place where the same actually was committed or arose, or

in any place in the Ottoman dominions where the person charged or complained of happens to be at the time of the institution or commencement of the charge or complaint.

30. Where a British subject is charged with the commission of an offence the cognisance whereof appertains to the Court, and it is expedient that the crime or offence be inquired of, tried, determined, and punished within Her Majesty's dominions elsewhere than in England, the accused may (under "The Foreign Jurisdiction Act, 1890,"* section 6) be sent for trial to Bombay or Malta.

The Supreme Court may, where it appears so expedient, by warrant under the hand of the Judge and the seal of the Court, cause the accused to be sent for trial to Bombay or Malta accordingly.

The warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person therein named, and to carry him to and deliver him up to Bombay or to Malta (as the case may be), according to the warrant.

Where any person is to be so sent to Bombay or to Malta, the Court before which he is charged shall take the preliminary examination, and shall bind over such of the proper witnesses as are British subjects in their own recognisances to appear and give evidence on the trial.

31.—(1.) The Supreme Court may adjudge punishment as follows :—

- (a.) Imprisonment, not exceeding twenty years, with or without hard labour, and with or without a fine not exceeding 500*l.*; or
 - (b.) A fine not exceeding 500*l.*, without imprisonment; and
 - (c.) In case of a continuing offence, in addition to imprisonment or fine, or both, a fine not exceeding 1*l.* for each day during which the offence continues after the day of the commission of the original offence.
- (2.) A Provincial Court may adjudge punishment as follows :—
- Imprisonment, not exceeding twelve months, with or without hard labour, and with or without a fine not exceeding 50*l.*; or
 - A fine not exceeding 50*l.*, without imprisonment.
- (3.) A Local Court may adjudge punishment as follows :—
- A fine not exceeding 5*l.*, without imprisonment; provided that a Local Court shall not hear and determine any charge unless the offence is punishable on summary conviction.

32.—(1.) Every accused person shall be tried upon a charge, which shall state the offence charged, with such particulars as to the time and place of the alleged offence, and the person (if any) against whom or the thing (if any) in respect of which it was

* 53 & 54 Vict. c. 37

committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged.

(2.) The fact that a charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case.

(3.) Where the nature of the case is such that the particulars above mentioned do not give such sufficient notice as aforesaid, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will give such sufficient notice.

33. For every distinct offence of which any person is accused there shall be a separate charge, and every such charge shall be tried separately, except in the cases following, that is to say—

- (a.) Where a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences he may be charged with, and tried at one trial for, any number of them not exceeding three.
- (b.) If in one series of acts so connected together as to form the same transaction more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence.
- (c.) If the acts alleged constitute an offence falling within two or more definitions or descriptions of offences in any law or laws, the accused may be charged with, and tried at one trial for, each of such offences.
- (d.) If several acts constitute several offences, and also, when combined, a different offence, the accused may be charged with, and tried at one trial for, the offence constituted by such acts when combined, or one or more of the several offences, but in the latter case shall not be punished with more severe punishment than the Court which tries him could award for any one of those offences.
- (e.) If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences, and any number of such charges may be tried at once; or he may be charged in the alternative with having committed some one of the offences; and if it appears in evidence that he has committed a different offence for which he might have been charged, he may be convicted of that offence, although not charged with it.

34. When more persons than one are accused of the same offence or of different offences committed in the same transaction, or when one is accused of committing an offence and another of abetting or attempting to commit that offence, they may be charged and tried together or separately, as the Court thinks fit.

35.—(1.) Any Court, if sitting with a jury or assessors, may alter any charge at any time before the verdict of the jury is returned or the opinions of the assessors are expressed; if sitting without jury or assessors, at any time before judgment is pronounced.

(2.) Every such alteration shall be read and explained to the accused.

(3.) If the altered charge is such that proceeding with the trial immediately is likely, in the opinion of the Court, to prejudice the accused or the prosecutor, the Court may adjourn the trial for such period as may be necessary.

36.—(1.) No error or omission in stating either the offence or the particulars shall be regarded at any stage of the case as material unless the accused was misled by such error or omission.

(2.) When the facts alleged in certain particulars are proved and constitute an offence, and the remaining particulars are not proved, the accused may be convicted of the offence constituted by the facts proved, although not charged with it.

(3.) When a person is charged with an offence and the evidence proves either the commission of a minor offence, or an attempt to commit the offence charged, he may be convicted of the minor offence or of the attempt.

37.—(1.) If the accused has been previously convicted of any offence, and it is intended to prove such conviction for the purpose of affecting the punishment which the Court is competent to award, the fact, date, and place of the previous conviction shall be stated in the charge.

(2.) If such statement is omitted, the Court may add it at any time before sentence is passed.

(3.) The part of the charge stating the previous conviction shall not be read out in the Court, nor shall the accused be asked whether he has been previously convicted, as alleged in the charge, unless and until he has either pleaded guilty to, or been convicted of, the subsequent offence.

(4.) If he pleads guilty to, or is convicted of, the subsequent offence, he shall then be asked whether he has been previously convicted, as alleged in the charge.

(5.) If he answers that he has been so previously convicted, the Court may proceed to pass sentence on him accordingly, but, if he denies that he has been so previously convicted, or refuses to, or does not, answer such question, the Court shall then inquire concerning such previous conviction, and in such case (where the trial is by jury) it shall not be necessary to swear the jurors again.

38.—(1.) In each of the two following cases, namely:—

(i.) Where the offence charged is felony; or,

(ii.) When it appears to the Court at any time before the trial, the opinion of the Court being recorded in the Minutes, that the offence charged, if proved, would not be adequately punished by imprisonment for

three months with hard labour, or by a fine of 20*l.*, or both such imprisonment and fine,—

The charge shall be triable with a jury or assessors (according to the provisions of this Order applicable to the Court); but may, with the consent of the accused, be tried without assessors or jury. In the Supreme Court, when the accused does not so consent, the charge shall be tried with a jury, unless the Court is of opinion that a jury cannot be obtained.

(2.) The Supreme Court may, for any special reason, direct that any case shall be tried with assessors or a jury, and a Provincial Court may, for any special reason, direct that any case shall be tried with assessors. In each such case the special reason shall be recorded in the Minutes.

39.—(1.) The Registrar of the Supreme Court when the duties of that officer are not performed by the Assistant Judge shall, subject to any directions of the Supreme Court, hear and determine such criminal cases in that Court as may, under this Order, be heard and determined without assessors or jury, and for this purpose shall exercise all the powers and jurisdiction of a Provincial Court.

(2.) The officer performing the duties of Registrar, in a Provincial or Local Court shall, when required by the Court, act as public prosecutor, and conduct the prosecution in any criminal case.

40.—(1.) Where a charge made in a Provincial or Local Court appears to that Court to be one which ought under the provisions of this Order to be reported, the Provincial or Local Court shall proceed to make a preliminary examination of the charge in the prescribed manner, and shall send the depositions and a Minute of other evidence (if any) together with its Report, in the case of a Provincial Court, to the Supreme Court, or in the case of a Local Court, to the Provincial Court.

(2.) Where a charge, reported to a Provincial Court under this Article appears to that Court to be one which ought to be reported to the Supreme Court, the Provincial Court shall send the depositions, Minutes, and Report of the Local Court, with a covering Report, to the Supreme Court.

41.—(1.) Where a person charged with an offence is arrested on warrant issuing out of any Court, he shall be brought before the Court within 48 hours after the execution of the warrant, unless in any case circumstances unavoidably prevent his being brought before the Court within that time, which circumstances shall be recorded in the Minutes.

(2.) In every case, he shall be brought before the Court as soon as circumstances reasonably admit, and the time and circumstances shall be recorded in the Minutes.

42.—(1.) Where the accused is ordered to be tried before a Court with a jury or with assessors, he shall be tried as soon after the making of the order as circumstances reasonably admit.

(2.) As long notice of the time of trial as circumstances reasonably admit shall be given to him in writing, under the seal of the Court, which notice, and the time thereof, shall be recorded in the Minutes.

43.—(1.) Where an accused person is in custody, he shall not be remanded at any time for more than seven days, unless circumstances appear to the Court to make it necessary or proper that he should be remanded for a longer time, which circumstances, and the time of remand, shall be recorded in the Minutes.

(2.) In no case shall a remand be for more than fourteen days at one time, unless in case of illness of the accused or other case of necessity.

44.—(1.) The Court may, in its discretion, admit to bail a person charged with any of the following offences, namely :—

Any felony.

Riot.

Assault on any officer in the execution of his duty, or on any person acting in his aid.

Neglect or breach of duty by an officer.

But a person charged with treason or murder shall not be admitted to bail except by the Supreme Court.

(2.) In all other cases the Court shall admit the accused to bail unless the Court, having regard to the circumstances, sees good reason to the contrary, which reason shall be recorded in the Minutes.

(3.) The Supreme Court may admit a person to bail, although a Provincial or Local Court has not thought fit to do so.

(4.) The accused who is to be admitted to bail, either on remand or on or after trial ordered, shall produce such surety or sureties as, in the opinion of the Court, will be sufficient to insure his appearance as and when required, and shall with him or them enter into a recognisance accordingly.

45.—(1.) Where after a preliminary examination the accused is ordered to be tried, the Court shall bind by recognisance the prosecutor, and every witness to appear at the trial to prosecute, or to prosecute and give evidence, or to give evidence (as the case may be).

(2.) If a British subject refuses to enter into such recognisance the Court may send him to prison, there to remain until after the trial, unless in the meantime he enters into a recognisance.

(3.) But if afterwards, from want of sufficient evidence or other cause, the accused is discharged, the Court shall order that the person imprisoned for so refusing be also discharged.

(4.) Where the prosecutor or witness is not a British subject, the Court may require him either to enter into a recognisance or to give other security for his attendance at the trial, and if he fails to do so may in its discretion dismiss the charge.

46.—(1.) Where an accused person is convicted of murder, the proper officer of the Supreme Court, under the direction of the

presiding Judge, shall, in open Court, require the offender to state if he has anything to say why judgment of death should not be recorded against him.

(2.) If the offender does not allege anything that would be sufficient in law to prevent judgment of death if the offence and trial had been committed and had in England, the Judge may order that judgment of death be entered on record.

(3.) Thereupon the proper officer shall enter judgment of death on record against the offender, as if judgment of death had been actually pronounced on him in open Court by the Judge.

(4.) The presiding Judge shall forthwith send a Report of the Judgment, together with a copy of the Minutes and of the notes of evidence and any observations which he thinks fit to make, to the Secretary of State for his direction respecting the punishment to be actually imposed.

(5.) The punishment actually imposed shall not in any case exceed the measure of imprisonment and fine which the Supreme Court is empowered by this Order to impose.

47.—(1.) The Court may, if it thinks fit, order a person convicted of an assault to pay to the person assaulted by way of damages any sum not exceeding 10*l*.

(2.) Damages so ordered to be paid may be either in addition to or in lieu of a fine, and shall be recoverable in like manner as a fine.

(3.) Payment of such damages shall be a defence to an action for the assault.

48.—(1.) The Court may, if it thinks fit, order a person convicted before it to pay all or part of the expenses of his prosecution, or of his imprisonment or other punishment, or of both, the amount being specified in the order.

(2.) Where it appears to the Court that the charge is malicious, or frivolous and vexatious, the Court may, if it thinks fit, order the complainant to pay all or part of the expenses of the prosecution, the amount being specified in the order.

(3.) In these respective cases the Court may, if it thinks fit, order that the whole or such portion as the Court thinks fit of the expenses so paid be paid over to the complainant or to the accused (as the case may be).

(4.) In all cases the reasons of the Court for making any such order, or for refusing it if applied for, shall be recorded in the Minutes.

49. Subject to Rules of Court made under this Order, the Court may order payment of the reasonable expenses of any complainant or witness attending before the Court on the trial of any criminal case by a jury or with assessors, and also of the reasonable expenses of the jury or assessors.

50.—(1.) The Supreme Court may by general order approved by the Secretary of State prescribe the manner in which and the prisons in the Ottoman dominions at which punishments

passed by any Court or otherwise awarded under this Order are to be carried into execution.

(2.) The warrant of any Court shall be sufficient authority to any person to whom it is directed to receive and detain the person therein named in any prison so prescribed.

51.—(1.) Where an offender is sentenced to imprisonment, and the Supreme Court thinks it expedient that the sentence be carried into effect within Her Majesty's dominions, and the offender is accordingly under section 7 of "The Foreign Jurisdiction Act, 1890," sent for imprisonment to a place in Her Majesty's dominions, the place shall be either Malta or Gibraltar, or a place in some other part of Her Majesty's dominions out of the United Kingdom, the Government whereof consents that offenders may be sent thither under this Article.

(2.) The Supreme Court may, by warrant under the hand of a Judge and the seal of the Court, cause the offender to be sent to Malta or Gibraltar, or other such place as aforesaid, in order that the sentence may be there carried into effect accordingly.

(3.) The warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person therein named and to carry him to and deliver him up at the place named, according to the warrant.

52. "The Fugitive Offenders Act, 1881," * and "The Colonial Prisoners Removal Act, 1884," † shall apply to Egypt and to the Ottoman dominions other than Egypt as if those places were respectively British possessions and parts of Her Majesty's dominions.

Subject as follows,—

- (a.) As respects Egypt, Her Majesty's Agent and Consul-General, and as respects the Ottoman dominions (other than Egypt), the Ambassador at Constantinople is hereby substituted for the Governor or Government of a British possession.
- (b.) The Supreme Court, or in Egypt, during the absence of a Judge of the Supreme Court, the Provincial Court at Alexandria is hereby substituted for a Superior Court of a British possession.
- (c.) The Supreme Court and each Provincial Court is substituted for a Magistrate of any part of Her Majesty's dominions.
- (d.) For the purposes of Part II. of the said Act of 1881, and of this Article in relation thereto, the Ottoman dominions and Malta and Gibraltar shall be deemed to be one group of British possessions.

53.—(1.) The Supreme Court may, if it thinks fit, report to the Secretary of State recommending a mitigation or remission of any punishment awarded by any Court; and thereupon the

* 44 & 45 Vict. c. 69.

† 47 & 48 Vict. c. 31.

punishment may be mitigated or remitted by the Secretary of State.

(2.) Nothing in this Order shall affect Her Majesty's prerogative of pardon.

54. Where a person charged with an offence escapes or removes from the Consular district within which the offence was committed and is found within another Consular district, the Court within whose district he is found may proceed in the case to trial and punishment, or to preliminary examination (as the case may require), in like manner as if the offence had been committed in its own district; or may, on the requisition or with the consent of the Court within whose district the offence was committed, send him in custody to that Court, or require him to give security for his surrender to that Court, there to answer the charge and to be dealt with according to law.

Where any person is to be so sent in custody, a warrant shall be issued by the Court within whose district he is found, and that warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person therein named, and to carry him to and deliver him up to the Court within whose district the offence was committed, according to the warrant.

55.—(1.) In cases of murder or manslaughter if either the death, or the criminal act which wholly or partly caused the death, happened within the jurisdiction of a Court acting under this Order, that Court shall have the like jurisdiction over any British subject who is charged either as the principal offender, or as accessory before the fact to murder, or as accessory after the fact to murder or manslaughter, as if both the criminal act and the death had happened within that jurisdiction.

(2.) In the case of any offence committed on the high seas, or within the Admiralty jurisdiction, by any British subject on board a British ship, or on board a foreign ship to which he did not belong, the Court shall, subject to the provisions of this Order, have jurisdiction as if the offence had been committed within the jurisdiction of that Court. In cases tried under this Article no different sentence can be passed from the sentence which could be passed in England if the offence were tried there.

(3.) The foregoing provisions of this Article shall be deemed to be adaptations, for the purposes of this Order, and of "The Foreign Jurisdiction Act, 1890," of the following enactments, that is to say :—

"The Admiralty Offences (Colonial) Act, 1849." *

"The Admiralty Offences (Colonial) Act, 1860." †

"The Merchant Shipping Act, 1894," section 686. ‡

56. Where the Supreme Court or a Provincial Court issues a summons or warrant against any person on a charge of an offence committed on board of or in relation to a British ship, then, if it

* 12 & 13 Vict. c. 96.

† 23 & 24 Vict. c. 122.

‡ 57 & 58 Vict. c. 60.

appears to the Court that the interests of public justice so require, that Court may issue a warrant or order for the detention of the ship, and may cause the ship to be detained accordingly, until the charge is heard and determined, and the order of the Court thereon is fully executed, or for such shorter time as the Court thinks fit; and the Court shall have power to make all such orders as appear to it necessary or proper for carrying this provision into effect.

57. Any act which, if done in the United Kingdom or in a British possession, would be an offence against any of the following Statutes of the Imperial Parliament, or Orders in Council, that is to say :—

“The Merchandise Marks Act, 1887”; *

“The Patents, Designs, and Trade Marks Acts, 1883 to 1888”; †

Any Act, Statute, or Order in Council for the time being in force relating to copyright, or to inventions, designs, or trade-marks;

Any Statute amending or substituted for any of the above-mentioned Statutes :—

Shall, if done by a British subject in the Ottoman dominions, be punishable as a grave offence against this Order, whether such Act is done in relation to any property or right of a British subject, or of a foreigner, or native, or otherwise, howsoever :—

Provided—

(1.) That a copy of any such Statute or Order in Council shall be published in the public office of the Consulates at Constantinople and Alexandria, and shall be there open for inspection by any person at all reasonable times; and a person shall not be punished under this Article for anything done before the expiration of one month after such publication, unless the person offending is proved to have had express notice of the Statute or Order in Council.

(2.) That a prosecution by or on behalf of a prosecutor who is not a British subject shall not be entertained unless the Court is satisfied that effectual provision exists for the punishment in Consular or other Courts in the Ottoman dominions of similar acts committed by the subjects of the State or Power of which such prosecutor is a subject, in relation to, or affecting the interests of, British subjects.

58.—(1.) The Supreme Court shall, when required by the Secretary of State, send to him a report of the sentence of the Court in any case tried before that Court with a jury or assessors,

* 50 & 51 Vict. c. 28.

† 46 & 47 Vict. c. 57; 48 & 49 Vict. c. 63; 49 & 50 Vict. c. 37; and 51 & 52 Vict. c. 50.

with a copy of the Minutes and notes of evidence, and with any observations which the Court thinks fit to make.

(2.) Every Provincial Court shall, in accordance with Rules to be made under this Order, send to the Supreme Court a report of the sentence of the Court in every case tried by the Court with assessors, with such Minutes, notes of evidence, and other documents as such Rules may direct, and with any observations which the Court thinks fit to make.

59.—(a.) The Court shall have and discharge all the powers, rights, and duties appertaining to the office of Coroner in England, in relation not only to deaths of British subjects happening in the district of the Court, but also to deaths of any persons having happened at sea on board British ships arriving in the district, and to deaths of British subjects having happened at sea on board foreign ships so arriving.

(b.) Every inquest shall be held with a jury of not less than three persons comprised in the jury list of the Court summoned for that purpose.

(c.) If any person fails to attend according to such summons, he shall be liable to a fine not exceeding the fine to which he would be liable in case of failure to attend as a juror in civil or criminal proceedings.

(d.) In this Article the expression “the Court” includes the Registrar of the Supreme Court, but does not include a Local Court.

60.—(1.) Where it is proved that there is reasonable ground to apprehend that a British subject is about to commit a breach of the public peace,—or that the acts or conduct of a British subject are or is likely to produce or excite to a breach of the public peace,—the Court may, if it thinks fit, cause him to be brought before it and require him to give security to the satisfaction of the Court, to keep the peace, or for his future good behaviour, as the case may require ;

(2.) Where a British subject is convicted of an offence before the Court, or before a Court in the sentence of which one of Her Majesty’s Consular officers concurs, the Court for the district in which he is may, if it thinks fit, require him to give security to the satisfaction of the Court for his future good behaviour, and for that purpose may (if need be) cause him to be brought before the Court ;

(3.) In either of the foregoing cases, if the person required to give security fails to do so, the Court may order that he be deported from the Ottoman dominions to such place as the Court directs.

(4.) The place shall be a place in some part (if any) of Her Majesty’s dominions out of the United Kingdom, to which the person belongs, or the Government of which consents to the reception of persons deported under this Order, or in some part of a Protectorate of Her Majesty appointed by the Secretary of State.

(5.) A Provincial Court shall report to the Supreme Court any

order of deportation made by it, and the grounds thereof, before the order is executed. The Supreme Court may reverse the order, or may confirm it with or without variation, and in case of confirmation, shall direct it to be carried into effect.

(6.) The person to be deported shall be detained in custody until a fit opportunity for his deportation occurs.

(7.) He shall, as soon as is practicable,—and in the case of a person convicted, either after execution of the sentence or while it is in course of execution,—be embarked in custody under the warrant of the Supreme Court, or, in Egypt (during the absence of a judge of the Supreme Court), of the Provincial Court at Alexandria, on board one of Her Majesty's vessels of war, or, if there is no such vessel available, then on board any British or other fit vessel bound to the place of deportation.

(8.) The warrant shall be sufficient authority to the commander or master of the vessel, to receive and detain the person therein named, and to carry him to and deliver him up at the place named, according to the warrant.

(9.) The Court may order the person to be deported to pay all or any part of the expenses of his deportation. Subject thereto, the expenses of deportation shall be defrayed in such manner as the Secretary of State, with the concurrence of the Treasury, may direct.

(10.) The Supreme Court shall forthwith report to the Secretary of State any order of deportation made or confirmed by it and the grounds thereof, and shall also inform the Ambassador, or, if in Egypt, Her Majesty's Agent.

(11.) If any person deported under this or any former Order returns to the Ottoman dominions without permission in writing of the Secretary of State (which permission the Secretary of State may give) he shall be deemed guilty of a grave offence against this Order; and he shall also be liable to be forthwith again deported.

(12.) A Local Court shall not exercise any jurisdiction under this Article.

61.—(1.) Where a person is convicted before a Provincial or Local Court—

(a.) If he considers the conviction erroneous in law, then, on his application, within the prescribed time (unless it appears merely frivolous, when it may be refused);
or

(b.) If the Provincial or Local Court thinks fit to reserve for consideration of the Supreme Court any question of law arising on the trial;

the Provincial or Local Court shall state a case, setting out the facts and the grounds of the conviction, and the question of law, and send it to the Supreme Court.

(2.) Thereupon the Provincial or Local Court shall, as it thinks fit, either postpone judgment on the conviction, or respite execution of the judgment, and either commit the person convicted

to prison, or take security for him to appear and receive judgment or to deliver himself for execution of the judgment (as the case may require) at an appointed time and place.

(3.) The Supreme Court, sitting without a jury or assessors, shall hear and finally determine the matter, and thereupon shall reverse, affirm, or amend the judgment given, or set it aside, and order an entry to be made in the Minutes that in the judgment of the Supreme Court the person ought not to have been convicted, or order judgment to be given at a subsequent sitting of the Provincial or Local Court, or make such other order as the Supreme Court thinks just, and shall also give all necessary and proper consequential directions.

(4.) The judgment of the Supreme Court shall be delivered in open Court, after the public hearing of any argument offered on behalf of the prosecutor or of the person convicted.

(5.) Before delivering judgment, the Supreme Court may, if necessary, cause the case to be amended by the Provincial or Local Court.

(6.) The Supreme Court shall not annul a conviction or sentence, or vary a sentence, on the ground—

- (a.) Of any objection which, if stated during the trial, might, in the opinion of the Supreme Court, have been properly met by amendment by the Provincial or Local Court ; or
- (b.) Of any error in the summoning of Assessors ; or
- (c.) Of any person having served as Assessor who was not qualified ; or
- (d.) Of any objection to any person as Assessor which might have been raised before or at the trial ; or
- (e.) Of any informality in the swearing of any witness ; or
- (f.) Of any error or informality which, in the opinion of the Supreme Court, did not affect the substance of the case or subject the convicted person to any undue prejudice.

62. There shall be no appeal in a criminal case to Her Majesty the Queen in Council from a decision of the Supreme Court, except by special leave of Her Majesty in Council.

Part IV.—Civil Matters.

63. Subject to the provisions of this Order, the civil jurisdiction of every Court acting under this Order shall, as far as circumstances admit, be exercised on the principles of, and in conformity with, the Statute and other law for the time being in force in and for England.

64.—(1.) Every civil proceeding in the Court shall be taken by action, and not otherwise, and shall be designated an action.

(2.) For the purposes of any statutory enactment or other provision applicable under this Order to any civil proceeding in the Court, an action under this Order shall comprise and be equivalent to a suit, cause, or petition, or to any civil proceeding, howsoever required by any such enactment or provision to be instituted or carried on.

65.—(1.) Every action shall be heard and determined in a summary way.

(2.) Every application in the course of an action may be made to the Court orally, and without previous formality, unless in any case the Court otherwise directs, or the rules of Court otherwise provide.

(3.) No action or proceeding shall be treated by the Court as invalid on account of any technical error or mistake in form or in words.

(4.) All errors and mistakes may be corrected, and times may be extended, by the Court in its discretion, and on such terms as the Court thinks just.

66.—(1.) The sittings of the Court for the hearing of actions shall, where the amount of business so requires, be held on stated days.

(2.) The sittings shall ordinarily be public, but the Court may, for reasons recorded in the Minutes, hear any particular case in the presence only of the parties and their legal advisers and the officers of the Court.

67. Every action shall commence by a summons, issued from the Court, on the application of the plaintiff, and served on the defendant (in this Order referred to as an original summons).

68. The Registrar shall keep a book, called the Action Book, in which all actions brought in the Court shall be entered, numbered consecutively in each year, in the order in which they are commenced, with a short statement of the particulars of each action, and a note of the several proceedings therein.

69.—(1.)—An original summons shall not be in force for more than twelve months from the day of its date (including that day).

(2.) If any defendant named therein is not served therewith, the plaintiff may, before the end of the twelve months, apply to the Court for renewal thereof.

(3.) The Court, if satisfied that reasonable efforts have been made to serve the defendant, or for other good reason, may order that the summons be renewed for six months from the date of renewal, and so, from time to time, during the currency of the renewed summons.

(4.) The summons shall be renewed by being re-sealed with the seal of the Court, and a note being made thereon by the Registrar, stating the renewal and the date thereof.

(5.) A summons so renewed shall remain in force and be available to prevent the operation of any statute of limitation, and for all other purposes, as from the date of the original summons.

(6.) The production of a summons purporting to be so renewed shall be sufficient evidence of the renewal and of the commencement of the action, as of the date of the original summons, for all purposes.

70. If an action is not proceeded with and disposed of within twelve months from service of the original summons, the Court may, if it thinks fit, without application by any party, order the same to be dismissed for failure to proceed.

71. The Court may, at any time, if it thinks fit, either on or without application of a defendant, order the plaintiff to put in further particulars of his claim.

72. There shall ordinarily be no written pleadings ; but the Court may at any time, if it thinks fit, order the plaintiff to put in a written statement of his claim, or a defendant to put in a written statement of his defence.

73. The evidence on either side may, subject to the direction of the Court, be wholly or partly oral, or on affidavit, or by deposition.

74.—(1.) Subject to the provisions of this Order, every action in the Supreme Court which involves the amount or value of 50*l.* or upwards shall, on the demand of either party in writing, filed in the Court seven days before the day appointed for the hearing, be heard with a jury.

(2.) Any other suit may, on the suggestion of any party, at any stage, be heard with a jury, if the Court thinks fit.

(3.) Any suit may be heard with a jury if the Court, of its own motion, at any stage, thinks fit.

75.—(1.) The Supreme Court may, if it thinks fit, hear any action with Assessors.

(2.) A Provincial Court shall (subject to the provisions of this Order) hear with Assessors every action which involves the amount or value of 300*l.*, or upwards.

(3.) In all other cases a Provincial Court may, as it thinks fit, hear the action either with or without Assessors.

76.—(1.) After the issue of a summons by any Court, the decision of that Court may be given upon a special case submitted to the Court by the parties.

(2.) Any decision of a Provincial Court may be given subject to a case to be stated by, or under the direction of, that Court for the opinion or direction of the Supreme Court.

77. The following provisions apply to a Local Court :—

(1.) Such Court shall not exercise jurisdiction where the amount or value involved exceeds 10*l.*

(2.) A Local Court shall, within 14 days after the determination of any action, report the action to the Provincial Court, and transmit to that Court a copy of the proceedings.

- (3.) A Local Court shall have power to enforce any order by execution on the goods of the party ordered to pay, and not otherwise.
- (4.) An appeal to the Supreme Court from a Local Court shall lie as of course on the appellant making a deposit of 1l. for costs to abide the decision on appeal, and execution shall thereupon be suspended.
- (5.) After one month from the date of the decision of the Local Court an appeal shall not lie except by leave of the Supreme Court.
- (6.) The proceedings with respect to an appeal under this Article shall be conducted as nearly as may be according to the provisions of this Order relating to appeals from Provincial Courts.
- (7.) In any case the Supreme Court may, if it thinks fit, on the application of any party, direct that the appeal be heard and determined by the Provincial Court or in the Supreme Court.

78.—(1.) Notwithstanding anything in this Order, the Court (for reasons recorded in the Minutes) may at any time do any of the following things as the Court thinks just :—

- (i.) Defer or adjourn the hearing or determination of any action, proceeding, or application ;
- (ii.) Order or allow any amendment of any pleading or other document ;
- (iii.) Appoint or allow a time for, or enlarge or abridge the time appointed or allowed for, or allow further time for, the doing of any act or the taking of any proceeding.

(2.) Any order within the discretion of the Court may be made on such terms respecting time, costs, and other matters, as the Court thinks fit.

79.—(1.) The Supreme Court may, if it thinks fit, on the application of any party, or of its own motion, order a rehearing of an action, or of an appeal, or of any arguments on a verdict, or on any other question of law.

(2.) The provisions of this Order respecting a hearing with a jury or assessors shall extend to a rehearing of an action.

(3.) The Supreme Court may, if it thinks fit, direct any rehearing to be before the full Court.

(4.) If the party applying for a rehearing has by any order been ordered to pay money or do any other thing, the Court may direct either that the order be carried into execution or that the execution thereof be suspended pending the rehearing, as it thinks fit.

(5.) If the Court directs the order to be carried into execution, the party in whose favour it is given shall before the execution give security to the satisfaction of the Court for performance of such order as shall be made on the rehearing.

(6.) If the Court directs the execution of the order to be sus-

pended, the party against whom it is given shall, before an order for suspension is given, give security to the satisfaction of the Judge for performance of such order as shall be made on the rehearing.

(7.) An application for a rehearing shall be made within the prescribed time.

80. Subject to the provisions of this Order and the Rules of Court, the costs of, and incident to, all proceedings in the Court shall be in the discretion of the Court, provided that if the action is tried with a jury the costs shall follow the event, unless the Court shall for good cause (to be entered in the Minutes) otherwise order.

81.—(1.) A minute of every order, whether interlocutory or final, shall be made by the Court in the Minutes of Proceedings at the time when the Judgment or order is given or made.

(2.) Every such Minute shall have the full force and effect of a formal order.

(3.) The Court may at any time order a formal order to be drawn up on the application of any party.

82. Where the Court delivers a decision in writing, the original, or a copy thereof, signed by the Judge or officer holding the Court, shall be filed in the proper office of the Court with the papers in the action.

83.—(1.) An order shall not be drawn up in form except on the application of some party to the action, or by direction of the Court, and shall then be passed and be certified by the affixing thereto of the seal of the Court, and it shall then be deemed to form part of the record in the action.

(2.) An order shall not be enforced or appealed from, nor shall an office copy of it be granted, until it forms part of the record.

(3.) An order shall bear the date of the day of the delivery of the decision on which the order is founded.

(4.) Any party to an action or proceeding is entitled to have an office copy of any order made therein.

84.—(1.) Ordinarily, an order of a Provincial or Local Court shall not be enforced out of the Consular district of the Consular officer making the order.

(2.) Where, however, a Provincial Court thinks that the urgency or other peculiar circumstances of the case so require, that Court may, for reasons recorded in the Minutes, order that any particular order be enforced out of the particular district.

85. All money ordered by the Court to be paid by any person shall be paid into an office of the Court, unless the Court otherwise directs.

86. Where money ordered by the Court to be paid is due for seamen's wages, or is other money recoverable under "The Merchant Shipping Act, 1894,"* or other law relating to ships,

* 57 & 58 Vict c. 60.

and the person ordered to pay is master or owner of a ship, and the money is not paid as ordered, the Court in addition to other powers for compelling payment, shall have power to direct that the amount unpaid be levied by seizure and sale of that ship.

87. Where an order ordering payment of money remains wholly or in part unsatisfied, whether an execution order has been made or not, the person prosecuting the order (in this Order called the judgment creditor) may apply to the Court for an order ordering the person by whom payment is to be made (in this Order called the judgment debtor) to appear and be examined respecting his ability to make the payment; and the Court shall, unless it sees good reason to the contrary, make an order accordingly.

Where the order for the payment of money was made by a Local Court, the application under this Article shall be made to the Provincial Court.

88.—(1.) On the appearance of the judgment debtor, he may be examined on oath by or on behalf of the judgment creditor, and by the Court, respecting his ability to pay the money ordered to be paid, and for discovery of property applicable thereto, and respecting his disposal of any property.

(2.) He shall produce, on oath or otherwise, all books, papers, and documents in his possession or power relating to any property applicable to payment.

(3.) Whether the judgment debtor appears or not, the judgment creditor, and any witness whom the Court thinks requisite, may be examined, on oath or otherwise, respecting the same matters.

(4.) The Court may, if it thinks fit, adjourn the examination from time to time, and require from the judgment debtor such security for his appearance as the Court thinks fit; and, in default of his finding security, may, by order, commit him to the custody of an officer of the Court, there to remain until the adjourned hearing, unless sooner discharged.

89. If it appears to the Court, by the examination of the judgment debtor or other evidence, that the judgment debtor then has sufficient means to pay the money directed to be paid by him, and he refuses or neglects to pay the same according to the order, then and in any such case the Court may, if it thinks fit, by order, commit him to prison for any time not exceeding forty days.

90. On the examination, the Court, if it thinks fit, whether it makes an order for commitment or not, may rescind or alter any order for the payment of money by instalments or otherwise, and may make any further or other order, either for the payment of the whole amount forthwith, or by instalments, or in any other manner, as the Court thinks fit.

91.—(1.) The expenses of the judgment debtor's maintenance in prison shall be defrayed in the first instance by the judgment creditor, and may be recovered by him from the judgment debtor, as the Court directs.

*(2.) The expenses shall be estimated by the Court, and shall

be paid by the judgment creditor at such times and in such manner as the Court directs.

(3.) In default of payment the judgment debtor may be discharged, if the Court thinks fit.

92. Imprisonment of a judgment debtor under the foregoing provisions does not operate as a satisfaction or extinguishment of the debt or liability to which the order relates, or protect the debtor from being anew imprisoned for any new default making him liable to be imprisoned, or deprive the judgment creditor of any right to have execution against his goods, as if there had not been such imprisonment.

93. The judgment debtor, on paying at any time the amount ordered to be paid, and all costs and expenses, shall be discharged.

94.—(1.) Where the order of the Court is one ordering some act to be done other than payment of money, there shall be indorsed on the copy of it served on the person required to obey it a memorandum in the words or to the effect following :—

If you, the within-named A. B., neglect to obey this order within the time therein appointed, you will be liable to be arrested and your property may be sequestered.

(2.) Where the person directed to do the act fails to do it according to the order, the person prosecuting the order may apply to the Court for another order for the arrest of the disobedient person.

(3.) Thereupon the Court may make an order ordering and empowering an officer of the Court therein named to take the body of the disobedient person and detain him in custody until further order.

(4.) He shall be liable to be detained in custody until he has obeyed the order in all things that are to be immediately performed, and given such security, as the Court thinks fit, to obey the order in other respects (if any) at the future times thereby appointed.

95. If the debtor, against whom a warrant of arrest issues, cannot be found, or is taken or detained in custody without obeying the order, the person prosecuting the order may apply to the Court for an order of sequestration against his property.

96.—(1.) On proof of great urgency or other peculiar circumstances, the Court may, if it thinks fit, before service of a writ or summons in an action, and without notice, make an order of injunction, or an order to sequester money or goods, or to stop the clearance of a vessel, or to hold to bail, or to attach property.

(2.) Before making the order the Court shall require the person applying for it to enter into a recognisance, with or without a surety or sureties, as the Court thinks fit, as security for his being answerable in damages to the person against whom the order is sought.

(3.) The order shall not remain in force more than twenty-four hours, and shall, at the end of that time, wholly cease to be in

force, unless within that time an action is regularly brought by the person obtaining the order.

(4.) The order shall be dealt with in the action as the Court thinks fit.

97.—(1.) An order to hold to bail shall state the amount, including costs, for which bail is required.

(2.) It shall be executed forthwith.

(3.) The person arrested under it shall be entitled to be discharged from custody under it on bringing into Court the amount stated in the order, to abide the event of such action as may be brought, or on entering into a recognisance, without or with a surety or sureties, as the Court thinks fit, as security that he will abide by the orders of the Court in any action brought.

(4.) He shall be liable to be detained in custody under the order for not more than seven days, if not sooner discharged; but the Court may, from time to time, if it thinks fit, renew the order.

(5.) No person, however, shall be kept in custody under any such order and renewed order for a longer time, in the whole, than thirty days.

98.—(1.) Where an action is brought for the recovery of a sum exceeding 5*l.*, and it is proved that the defendant is about to abscond for the purpose of defeating the plaintiff's claim, the Court may, if it thinks fit, order that he be arrested and delivered into safe custody, to be kept until he gives bail or security, with a surety or sureties, in such sum, expressed in the order, as the Court thinks fit, not exceeding the probable amount of debt, or damages, and costs to be recovered in the action, that he will appear at any time when called on, while the action is pending, and until execution or satisfaction of any order made against him, and that, in default of appearance, he will pay any money and costs which he is ordered to pay in the action.

(2.) The expenses incurred for the subsistence of the defendant while under arrest shall be paid by the plaintiffs in advance at such rate and in such amounts as the Court directs; and the total amount so paid may be recovered by the plaintiff in the action, unless the Court otherwise directs.

(3.) The Court may at any time, on reasonable cause shown, discharge or vary the order.

99.—(1.) Where it is proved that the defendant, with intent to obstruct or delay the execution of any order obtained or to be obtained against him, is about to remove any property out of the jurisdiction of the Court, the Court may, if it thinks fit, on the application of the plaintiff, order that property to be forthwith seized and secured.

(2.) The Court may at any time, on reasonable cause shown, discharge or vary the order.

100.—(1.) On proof of great urgency or other peculiar circumstances, after an action is brought, the Court may, if it thinks fit, on the application of a plaintiff, or of its own motion, make an order for stopping the clearance of, or for the arrest and detention

of, a vessel about to leave the district, other than a vessel enjoying immunity from civil process.

(2.) The Court may at any time, on reasonable cause shown, discharge or vary the order.

101.—(1.) If it appears to the Court that any order made under any of the last four foregoing Articles of this Order was applied for on insufficient grounds, or if the plaintiff's action fails, or judgment is given against him, by default or otherwise, and it appears to the Court that there was no sufficient ground for his bringing the action, the Court may, if it thinks fit, on the application of the defendant, order the plaintiff to pay to the defendant such amount as appears to the Court to be a reasonable compensation to the defendant for the expense and injury occasioned to him by the execution of the order.

(2.) Payment of compensation under this Article is a bar to any action for damages in respect of anything done in pursuance of the order, and any such action, if begun, shall be stayed by the Court in such manner and on such terms as the Court thinks fit.

102.—(1.) Any agreement in writing between any British subjects to submit present or future differences to arbitration, whether an arbitrator is named therein or not, may be filed in the Court by any party thereto, and unless a contrary intention is expressed therein, shall be irrevocable, and shall have the same effect as an order of the Court.

(2.) Every such agreement is in this Order referred to as a submission.

(3.) If any action is commenced in respect of any matter covered by a submission, the Court, on the application of any party to the action, may by order stay the action.

103.—(1.) In any action—

(a.) If all parties consent, or

(b.) If the matters in dispute consist wholly or partly of matters of account, or require for their determination prolonged examination of documents or any scientific or local examination.

the Court may at any time refer the whole action, or any question or issue arising therein, for inquiry and report, to the Registrar or any special Referee.

(2.) The Report of the Registrar or special Referee may be adopted wholly or partially by the Court, and if so adopted may be enforced as a judgment of the Court.

(3.) The Court may also in any case, with the consent of both parties to an action, or of any parties between whom any questions in the action arise (such consent being signified by a submission) refer the action or the portions referred to in the submission to arbitration, in such manner and upon such terms as it shall think reasonable or just.

(4.) In all cases of reference to a Registrar, special Referee,

or Arbitrator, under any order of the Court, the Registrar, special Referee, or Arbitrator shall be deemed to be an officer of the Court, and shall have such powers and authority, and shall conduct such reference or arbitration in such manner as may be prescribed by any rules of Court, and subject thereto as the Court may direct.

104. Subject to the Rules of Court, the Court shall have authority to enforce any submission, or any award made thereunder, and to control and regulate the proceedings before and after the award in such manner and on such terms as the Court thinks fit.

105.—(1.) Each Court shall, as far as circumstances admit, have, for and within its own district, with respect to the following classes of persons being either resident in the Ottoman dominions, or carrying on business there, namely, resident British subjects and their debtors and creditors, being British subjects, or Ottoman subjects or foreigners submitting to the jurisdiction of the Court, all such jurisdiction in bankruptcy as for the time belongs to the High Court and the County Courts in England.

(2.) Proceedings in bankruptcy shall be originated by a summons to the party to be made bankrupt to show cause why he should not be adjudicated bankrupt, or by a summons issued by a debtor himself to his creditor, or any of his creditors, to show cause why he (the debtor) should not be adjudicated bankrupt.

(3.) On or at any time after the issue of such a summons the Supreme Court may stay any proceedings pending in any Court in any action, execution, or other legal process against the debtor in respect of any debt provable in bankruptcy, or it may allow such proceedings, whether pending at the commencement of the bankruptcy or begun during the continuance of the bankruptcy, to proceed on such terms as the Court thinks fit.

(4.) The Court may, on or at any time after the issue of such a summons, appoint a receiver or manager of the property or business of the debtor, or of any part thereof, and may direct immediate possession to be taken by an officer of the Court, or under the control of the Court, of that property or business, or of any part thereof.

106.—(1.) The Supreme Court shall have Admiralty jurisdiction for and within the Ottoman dominions and Ottoman waters, and over vessels and persons coming within the same.

(2.) The following enactments of "The Colonial Courts of Admiralty Act, 1890," * that is to say, section 2, sub-section (2) to (4); sections 5 and 6; section 16, sub-section (3); shall apply to the Supreme Court as if that Court were a Colonial Court of Admiralty, and as if the Ottoman dominions were a British possession; and for the purpose of this application the expressions "judgment" and "appeal" shall in the enactments so applied have the same respective meanings as are assigned thereto in section 15 of the said Act.

* 53 & 54 Vict. c. 27.

(3.) During the absence from Egypt of a Judge of the Supreme Court, the jurisdiction of the Supreme Court under this Article shall, subject to any Rules of Court, be exercised by the Provincial Court at Alexandria.

107. The Supreme Court shall, as far as circumstances admit, have for and within the Ottoman dominions, with respect to British subjects, all such jurisdiction, except the jurisdiction relative to dissolution or nullity or jactitation of marriage, as for the time being belongs to the High Court in England.

108.—(1.) The Supreme Court shall, as far as circumstances admit, have, for and within the Ottoman dominions, in relation to British subjects, all such jurisdiction relative to the custody and management of the persons and estates of lunatics, as for the time being belongs to the Lord Chancellor or other Judge or Judges in England intrusted by virtue of Her Majesty's Sign Manual with the care and commitment of the custody of the persons and estates of lunatics.

(2.) A Provincial Court shall, as far as circumstances permit, have, in relation to British subjects, such jurisdiction relative to the custody and management of the persons and estates of lunatics as for the time being may be prescribed by rules of Court, and until such rules are made, and so far as such rules do not apply, as may be exercised in England by the judicial authority and by the Masters in Lunacy under the provisions of "The Lunacy Act, 1890," * and any Act amending the same.

(3.) In such any case the Provincial Court may, of its own motion, or on the application of any person interested, take or authorise such steps as to the Court may seem necessary or expedient for the immediate protection of the person and property of any person appearing to the Court to be a lunatic, and may, from time to time, revoke, or vary, or supplement any order or proceeding taken in the matter.

(4.) Subject to the provisions of this Article and to any rules of Court, a Provincial Court shall not proceed in any such matter except under and according to the directions of the Supreme Court.

(5.) Sections 5 to 7 of "The Lunatics Removal (India) Act, 1851" (14 & 15 Vict. cap. 81), shall apply to the Ottoman dominions, with the substitution of "the Supreme Court" for "the Supreme Court of Judicature at any of the Presidencies of India." Provided that the jurisdiction of the Supreme Court under those sections may, during the absence of a Judge thereof, be exercised in and for Egypt by the Provincial Court at Alexandria.

109.—(1.) The Supreme Court shall, as far as circumstances admit, have, for and within the Ottoman dominions, with respect to the wills and the property in the Ottoman dominions of deceased British subjects, all such jurisdiction as for the time being belongs to the High Court in England.

* 53 & 54 Vict. c. 5.

(2.) A Provincial Court shall have power to grant probate or letters of administration where there is no contention respecting the right to the grant, and it is proved that the deceased was resident at his death within the particular jurisdiction.

(3.) Probate or administration granted by a Court under this Order shall have effect over all the property of the deceased within the Ottoman dominions, and shall effectually discharge persons dealing with an executor or administrator thereunder, notwithstanding that any defect afterwards appears in the grant.

(4.) Notwithstanding anything in this Order, the Court shall not exercise the jurisdiction conferred by this Article in any case where the deceased, though a protected person, was at the time of his death an Ottoman subject, and in the construction of the provisions of this Order relating to probate and administration, the expression "British subject" shall not include any such protected person.

110. A British subject may in his lifetime deposit for safe custody, in the Court, his own will, sealed up under his own seal and the seal of the Court.

111.—(1.) Where probate, administration, or confirmation is granted in England, Ireland, or Scotland, and therein, or by a Memorandum thereon signed by an officer of the Court granting the same, the testator or intestate is stated to have died domiciled in England, Ireland, or Scotland (as the case may be), and the probate, administration, or confirmation is produced to, and a copy thereof is deposited with, the Supreme Court, the Court shall write thereon a certificate of that production and deposit under the seal of the Court; and thereupon notwithstanding anything in this Order, the probate, administration, or confirmation shall, with respect to the personal property in the Ottoman dominions of the testator or intestate, have the like effect as if he had been resident in those dominions at his death, and probate or administration to his personal property there had been granted by the Supreme Court.

(2.) Any person who, in reliance on an instrument purporting to be a probate, administration, or confirmation granted in England, Ireland, or Scotland, and to bear such a certificate of the Supreme Court as in this Article prescribed, makes or permits any payment or transfer, in good faith, shall be, by virtue of this Order, indemnified and protected in respect thereof, in the Ottoman dominions, notwithstanding anything affecting the validity of the probate, administration, or confirmation.

(3.) The following shall be the terms of the certificate of the Supreme Court in this Article prescribed, namely:—

This probate has [or these letters of administration have, or this confirmation has] been produced in this Court, and a copy thereof has been deposited with this Court.

112. Section 51 of "The Conveyancing (Scotland) Act, 1874," * and any enactment for the time being in force amending or sub-

* 37 & 38 Vict. c. 94.

stituted for the same, are hereby extended to the Ottoman dominions, with the adaptation following, namely :—

The Supreme Court is hereby substituted for a Court of Probate in a Colony.

113.—(1.) Each Consular officer shall endeavour to obtain, as early as may be, notice of the death of every British subject dying within the particular jurisdiction, whether resident or not, and all such information respecting his affairs as may serve to guide the Court with respect to the securing and administration of his property.

(2.) On receiving notice of the death the Consular officer shall put up a notice thereof at the Court-house, and shall keep the same there until probate or administration is granted, or where it appears to him that probate or administration will not be applied for, or cannot be granted, for such time as he thinks fit.

114.—(1.) Where a British subject resident dies in the Ottoman dominions, or elsewhere, intestate, then, until administration is granted, his personal property in the Ottoman dominions shall be vested in the Judge of the Supreme Court.

(2.) Where a British subject not resident dies in the Ottoman dominions, the Court within whose particular jurisdiction he dies—and where a British subject resident dies elsewhere, the Court within whose jurisdiction any property of the deceased is situate—shall, where the circumstances of the case appear to the Court so to require, forthwith on his death, or as soon after as may be, take possession of his personal property within the particular jurisdiction, or put it under the seal of the Court (in either case if the nature of the property or other circumstances so require, making an inventory), and so keep it until it can be dealt with according to law.

115. If any person named executor in the will of the deceased takes possession of and administers or otherwise deals with any part of the personal property of the deceased, and does not obtain probate within one month after the death, or after the termination of any suit or dispute respecting probate or administration, he shall be guilty of an offence and shall be liable to a fine not exceeding 50*l*.

116. If any person, other than the person named executor or an administrator or an officer of the Court, takes possession of and administers or otherwise deals with any part of the personal property of a deceased British subject, whether resident or not, he shall be deemed guilty of a contempt of Court, and shall be liable to a fine not exceeding 50*l*.

117. Where a person appointed executor in a will survives the testator, but either dies without having taken probate, or, having been called on by the Court to take probate, does not appear, his right in respect of the executorship wholly ceases ; and, without further renunciation the representation to the testator and the administration of his property shall go and may be committed as if that person had not been appointed executor.

118.—(1.) Where a British subject dies in the Ottoman dominions, any other such subject having in his possession, or under his control, any paper or writing of the deceased, being or purporting to be testamentary, shall forthwith bring the original to the Court within whose particular jurisdiction the death happens, and deposit it there.

If any person fails to do so for fourteen days after having knowledge of the death of the deceased, he shall be guilty of an offence and liable to a fine not exceeding 50*l*.

(2.) Where it is proved that any paper of the deceased, being or purporting to be testamentary, is in the possession or under the control of a British subject, the Court may, whether a suit or proceeding respecting probate or administration is pending or not, order him to produce the paper and bring it into Court.

(3.) Where it appears to the Court that there are reasonable grounds for believing that any person has knowledge of any paper being or purporting to be testamentary (although it is not shown that the paper is in his possession or under his control) the Court may, whether a suit or proceeding for probate or administration is pending or not, order that he be examined respecting it before the Court or elsewhere, and that he do attend for that purpose, and after examination order that he do produce the paper and deposit it in Court.

119.—(1.) A person claiming to be a creditor or legatee, or the next-of-kin, or one of the next-of-kin, of a deceased person may apply for and obtain a summons from the Court requiring the executor or administrator (as the case may be) of the deceased to attend before the Court and show cause why an order should not be made for the administration of the property under the direction of the Court.

(2.) On proof of service of the summons, or on appearance of the executor or administrator, and on proof of all such other things (if any) as the Court thinks fit, the Court may, if it thinks fit, make an immediate order for such administration.

(3.) The Court shall have full discretionary power to make or refuse any such order, or to give any special directions respecting the carriage or execution of it, and in the case of applications for such an order by two or more different persons or classes of persons, to grant the same to such one or more of the claimants, or classes of claimants, as the Court thinks fit.

(4.) If the Court thinks fit, the carriage of the order may subsequently be given to such person, and on such terms, as the Court thinks fit.

(5.) On making such an order, or at any time afterwards, the Court may, if it thinks fit, make any further or other order for compelling the executor or administrator to bring into Court for safe custody all or any part of the money, or securities, or other property of the deceased, from time to time coming to his hands, or otherwise for securing the safe keeping of the property of the deceased, or any part thereof.

(6.) If the extreme urgency or other peculiar circumstances

of the case appear to the Court so to require (for reasons recorded in the Minutes), the Court may of its own motion issue such a summons, and make such an order or such orders and cause proper proceedings to be taken thereon.

120.—(1.) In a case of apparent intestacy where the circumstances of the case appear to the Court so to require (for reasons recorded in the Minutes), the Court may, if it thinks fit, of its own motion, grant administration to an Officer of the Court.

(2.) The officer so appointed shall act under the direction of the Court, and shall be indemnified thereby.

(3.) He shall publish such notices, if any, as the Court thinks fit, in the Ottoman dominions, the United Kingdom, India, and elsewhere.

(4.) The Court shall require and compel him to file in the Court his accounts of his administration at intervals not exceeding three months.

(5.) The accounts shall be in all cases audited by the Supreme Court : for which purpose every Provincial Court shall, on the 1st day of February and the 1st day of August in every year, send to the Supreme Court all accounts so filed in the then last-preceding half-year.

(6.) A commission of 5 per cent., or such less amount as the Secretary of State directs, may be charged on an estate administered under this Article, and the amount thereof shall be calculated and applied as the Secretary of State directs.

(7.) All expenses incurred on behalf of the Court in the execution of this Article and the said commission shall be the first charge on the personal property of the deceased in the Ottoman dominions, and the Court shall, by sale of part of that property or otherwise, provide for the discharge of those expenses and the payment of the said commission.

121. Where it appears to the Court that the value of the property or estate of a deceased person does not exceed 100*l.*, the Court may, without any probate or letters of administration, or other formal proceeding, pay thereout any debts or charges, and pay, remit, or deliver any surplus to such persons, subject to such conditions (if any) as the Court thinks proper, and shall not be liable to any action, suit, or proceedings in respect of anything done under this Article. Every proceeding of the Court under this Article shall be recorded in the Minutes.

122.—(1.) Where an action in a Provincial Court involves the amount or value of 50*l.* or upwards, any party aggrieved by any decision of that Court, with or without assessors, in the action shall have the right to appeal to the Supreme Court against the same, on the following conditions, namely :—

- (i.) The appellant shall give security to the satisfaction of the Provincial Court to an amount not exceeding 100*l.* for prosecution of the appeal, and for payment of any costs that may be ordered by the Supreme Court on the appeal to be paid by the appellant to any person ;

(ii.) The appellant shall pay to the Provincial Court such sum as the Provincial Court thinks reasonable, to defray the expense of the making up and transmission of the record to the Supreme Court.

(2.) In any other case a Provincial Court may, if it thinks fit, give leave to appeal on the conditions aforesaid.

(3.) In any case the Supreme Court may give leave to appeal on such terms as it thinks fit.

(4.) After three months from the date of a decision of the Provincial Court, an appeal against it shall not lie except by leave of the Supreme Court.

(5.) After six months from the date of a decision of the Provincial Court, application for leave to appeal against it shall not be entertained by the Supreme Court.

123.—(1.) Where a person ordered to pay money, or to do any other thing, appeals, the Provincial Court shall direct either that the decision appealed from be carried into execution, or that the execution thereof be suspended pending the appeal, as that Court thinks fit.

(2.) If the Provincial Court directs the decision to be carried into execution, the person in whose favour it is given shall, before the execution of it, give security to the satisfaction of the Court for performance of any order to be made on appeal.

(3.) If the Provincial Court directs the execution of the decision to be suspended, the person against whom it is given shall, before an order for suspension is made, give security to the satisfaction of the Provincial Court for performance of such order as shall be made on appeal.

124.—(1.) The appellant shall file an appeal motion-paper in the Provincial Court.

(2.) He may at the same time file any argument which he desires to submit to the Supreme Court in support of the appeal.

(3.) Copies of the motion-paper and the argument (if any) shall be served on such persons as respondents as the Provincial Court directs.

125.—(1.) A respondent may, within the prescribed time after service of the motion-paper, file in the Provincial Court a motion-paper of cross-appeal (if any) and such argument as he desires to submit to the Supreme Court on the appeal and cross-appeal, if any.

(2.) Copies thereof shall be furnished by the Provincial Court to such persons as that Court thinks fit.

126.—(1.) On the expiration of the prescribed time last referred to the Provincial Court shall, without the application of any party, make up the record of appeal, which shall consist of the writ of summons, statements of claim and defence (if any), orders, and proceedings, all written and documentary evidence admitted or tendered, or a certified copy thereof, and the notes of the oral evidence, the appeal and cross-appeal motion-paper, and the arguments (if any).

(2.) The several pieces shall be fastened together, consecutively numbered ; and the whole shall be secured by the seal of the Court, and be forthwith forwarded by it to the Supreme Court.

(3.) The Provincial Court shall not, except for some special cause, take on itself the responsibility of the charge, or of the transmission to the Supreme Court, of original letters or documents produced in evidence. They shall be returned to the parties producing them ; and those parties shall produce the originals, if required by the Supreme Court, at or before the hearing of the appeal.

127.—(1.) After the record of appeal is transmitted, until the appeal is disposed of, the Supreme Court shall be in exclusive possession of the whole action, as between the parties to the appeal.

(2.) Every application in the action, as between the parties to the appeal, shall be made to the Supreme Court, and not to the Provincial Court ; but any application may be made through the Provincial Court.

128.—(1.) The Supreme Court shall, after receiving the record of appeal, fix a day for the hearing of the appeal, and shall give notice thereof through the Provincial Court to the parties to the appeal, such a day being fixed as will allow of the parties attending in person or by counsel or solicitor, if they so desire.

(2.) But if all the separate parties to an appeal appear in person before the Supreme Court, or appoint persons there to represent them as their counsel or solicitors in the appeal, and cause the appearance or appointment to be notified to the Supreme Court, the Supreme Court may dispose of the appeal, without being required to give notice through the Provincial Court, to the parties to the appeal, of the day fixed for the hearing thereof.

129. The Supreme Court may, if it thinks fit, require a party to an appeal to appear personally before it on the hearing of the appeal, or on any occasion pending the appeal.

130. It is not open, as of right, to a party to an appeal to adduce new evidence in support of his original case, but a party may allege any material facts that have come to his knowledge after the decision of the Provincial Court, and the Supreme Court may in any case, if it thinks fit, allow or require new evidence to be adduced.

131.—(1.) The Supreme Court may make any orders necessary for determining the real question in controversy in the action as among the parties to the appeal, and for that purpose may amend any defect or error in the record of appeal, and may enlarge the time for any proceeding except as otherwise by this Order expressly provided.

(2.) The Supreme Court may direct the Provincial Court to inquire into, and certify its finding on any question, as between the parties to the appeal, or any of them, which the Supreme Court thinks fit to determine before final judgment is given in the appeal.

(3.) Generally, the Supreme Court shall, as among the parties

to the appeal, have as full jurisdiction over the whole action as if it had been originally instituted and prosecuted in the Supreme Court by parties subject to the original jurisdiction of the Supreme Court.

(4.) The Supreme Court may, if it thinks fit, remit the action to the Provincial Court, to be reheard, or to be otherwise dealt with as the Supreme Court directs.

(5.) The powers of the Supreme Court under this Order may be exercised, notwithstanding that the appeal is brought against part only of the decision of the Provincial Court.

(6.) Those powers may be exercised in favour of all or any of the parties to the action, although they have not appealed from, or complained of, the decision.

132.—(1.) Notwithstanding anything in this Order, an appeal to the Supreme Court shall not lie from an order of the Provincial Court, made on the application of one party, without notice to the other party.

(2.) But, if any person thinks himself aggrieved by such an order, he may, on notice to the other party, apply to the Provincial Court to vary or discharge the order, and an appeal shall lie from the decision on that application.

133.—(1.) Where a final judgment or order of the Supreme Court made in a civil action involves the amount or value of 500*l.* or upwards, any party aggrieved thereby may, within the prescribed time, or, if no time is prescribed, within fifteen days after the same is made or given, apply by motion to the Supreme Court for leave to appeal to Her Majesty the Queen in Council.

(2.) The applicant shall give security to the satisfaction of the Court to an amount not exceeding 500*l.* for prosecution of the appeal, and for payment of all such costs as may be awarded to any respondent by Her Majesty in Council, or by the Lords of the Judicial Committee of Her Majesty's Privy Council.

(3.) He shall also pay into the Supreme Court a sum estimated by that Court to be the amount of the expense of the making up and transmission to England of the transcript of the record.

(4.) If security and payment are so given and made within one month from the filing of the motion-paper for leave to appeal, then, and not otherwise, the Supreme Court shall give leave to appeal, and the appellant shall be at liberty to prefer and prosecute his appeal to Her Majesty in Council according to the rules for the time being in force respecting appeals to Her Majesty in Council from her Colonies, or such other rules as Her Majesty in Council from time to time thinks fit to make concerning appeals from the Supreme Court.

(5.) In any case the Supreme Court, if it considers it just or expedient to do so, may give leave to appeal on the terms and in the manner aforesaid.

134.—(1.) Where leave to appeal to Her Majesty in Council is applied for by a person ordered to pay money or do any other act, the Supreme Court shall direct either that the order appealed

from be carried into execution, or that the execution thereof be suspended pending the appeal, as the Court thinks just.

(2.) If the Court directs the order to be carried into execution, the person in whose favour it is made shall, before the execution of it, give security to the satisfaction of the Court for performance of such order as Her Majesty in Council may think fit to make.

(3.) If the Court directs the execution of the order to be suspended, the party against whom it is given shall, before an order for suspension is made, give security to the satisfaction of the Court for performance of such Order as Her Majesty in Council may think fit to make.

135. This Order shall not affect the right of Her Majesty at any time, on the humble petition of a person aggrieved by a decision of the Supreme Court, to admit his appeal thereon on such terms and in such manner as Her Majesty in Council may think fit, and to deal with the decision appealed from in such manner as may be just.

Part V.—Procedure, Criminal and Civil.

136. It shall be lawful for the Supreme Court to make Rules of Court and to prescribe Forms of Procedure as to all civil or criminal matters, subject to the approval of the Secretary of State.

Until such rules and forms have been made, or in relation to matters to which they do not extend, a Court may adopt and use any procedure or forms heretofore in use in the Consular Courts in the Ottoman dominions, or any Regulations or Rules made thereunder and in force immediately before the commencement of this Order, with any modifications or adaptations which may be necessary.

No proceeding shall be invalidated by any informality, mistake, or omission, so long as in the opinion of any Court before which any question arises, the essential requisites of law and justice have been complied with.

Provision may, amongst other things, be made by rules under this Article—

- (a.) For authorising the Court to grant and enforce search warrants ;
- (b.) For regulating the procedure in the case of references or arbitrations before Registrars, special Referees or Arbitrators appointed by the Court and for enforcing awards ;
- (c.) For enforcing by distress, or by attachment, or commitment, judgments or orders of the Court, or payment of any damages, costs, penalties, fines, or forfeitures ;
- (d.) For the sale of things forfeited ;
- (e.) For garnishee process ;

- (f.) For attachments of property in order to compel appearance or submission to the jurisdiction or process of the Court, and authorising the Court to compel, by fine, distress, or recognisance, or in default of security by commitment, the attendance of witnesses before the Court, or before a Colonial or other Court to which a case is sent for trial;
- (g.) For regulating the mode in which legal practitioners are to be admitted to practise as such, and for withdrawing the right to practise on grounds of misconduct;
- (h.) For prescribing and enforcing the fees to be taken in respect of any proceedings under this Order, not exceeding, as regards any matters provided for by "The Consular Salaries and Fees Act, 1891," * fees fixed and allowed from time to time by any Order in Council made under that Act;
- (i.) For prescribing a scale of payments to be made to a complainant or witness, or a jury or Assessors (in criminal cases only), and the conditions upon which an order may be made by the Court for such payments;
- (j.) For prescribing scales of costs to be paid to practitioners;
- (k.) For taking and transmitting depositions of witnesses for use at trials in a Colony or in England.

Provided that the scales of all fees, expenses, and costs prescribed under the provisions of this Order shall have been sanctioned by the Treasury.

Provided also that any legal practitioner, whose right to practice before the Supreme Court has been withdrawn, shall be entitled to appeal to Her Majesty in Council.

137.—(1.) The Court may, in any case, if it thinks fit, on account of the poverty of a party, or for any other reason, provisionally dispense with the payment of any fee in whole or in part.

(2.) Payment of fees payable under any Rules to be made in pursuance of this Order, and of costs and of charges and expenses of witnesses, prosecutions, punishments, and deportations, and of other charges and expenses, and of fines respectively payable under this Order, may be enforced under order of the Court by seizure and sale of goods, and, in default of sufficient goods, by imprisonment as a civil prisoner for a term not exceeding one month, but such imprisonment shall not operate as a satisfaction or extinguishment of the liability.

(3.) Any bill of sale or mortgage, or transfer of property made with a view of avoiding seizure or sale of goods or ship under any provision of this Order shall not be effectual to defeat the provisions of this Order.

138.—(1.) Every summons, order, and other document issuing from the Court shall be in English, French, or Italian.

* 54 & 55 Vict. c. 36.

(2.) Every pleading and other document filed in the Court in a civil or criminal proceeding by a party thereto shall be in English, or French, or Italian.

(3.) Every affidavit used in the Court shall be in English, or in the ordinary language of the person swearing it.

(4.) An affidavit in any language other than English, or French, or Italian shall be accompanied by a sworn translation into English, or French, or Italian, procured by and at the expense of the person using the affidavit.

(5.) Where there is a jury all the proceedings before the jury shall be conducted in English—evidence, if given in any other language, being interpreted.

139.—(1.) Summonses, orders, and other documents issuing from the Supreme Court, shall be sealed with the seal of that Court.

(2.) Those issuing from a Provincial or Local Court shall be sealed with the official seal of the Consular officer by whom they are issued.

140.—(1.) In every case, civil or criminal, Minutes of the proceedings shall be drawn up, and shall be signed by the Judge or Consular officer before whom the proceedings are taken, and shall, where the trial is held with Assessors, be open for their inspection and for their signature if concurred in by them.

(2.) These Minutes, with the depositions of witnesses, and the notes of evidence taken at the hearing or trial by the Judge or Consular officer, shall be preserved in the public office of the Court.

141.—(1.) Every person doing an act or taking a proceeding in the Court as plaintiff in a civil case, or as making a criminal charge against another person, or otherwise, shall do so in his own name and not otherwise, and either—

(a.) By himself ; or

(b.) By a legal practitioner ; or

(c.) By his attorney or agent thereunto lawfully authorised in writing and approved by the Court.

(2.) Where the act is done or proceeding taken by an attorney (other than a legal practitioner), or by an agent, the power of attorney, or instrument authorising the agent, or an authenticated copy thereof, shall be first filed in the Court.

(3.) Where the authority has reference only to the particular proceeding, the original document shall be filed.

(4.) Where the authority is general, or has reference to other matters in which the attorney, or agent is empowered to act, an authenticated copy of the document may be filed.

142.—(1.) In any case, criminal or civil, and at any stage thereof, the Court, either of its own motion or on the application of any party, may summon a British subject to attend to give evidence, or to produce documents, or to be examined.

(2.) If the person summoned, having reasonable notice of the

time and place at which he is required to attend, and his reasonable expenses having been paid or tendered, fails to attend and be sworn, and give evidence, or produce documents, or submit to examination accordingly, and does not excuse his failure to the satisfaction of the Court, he shall be guilty of an offence against this Order.

(3.) A person punished under this Article shall not be liable to an action in respect of the same matter: and any such action, if begun, shall be stayed by the Court in such a manner and on such terms as the Court thinks fit.

143. If, in a criminal case, a witness appearing before the Court, either in obedience to a summons, or on being brought up under a warrant, refuses to take an oath, or, having taken an oath, to answer any question put to him, and does not excuse his refusal to the satisfaction of the Court, he shall be guilty of an offence, and shall be liable to be forthwith committed to prison, for not more than seven days.

144. The following Acts, namely:—

“The Foreign Tribunals Evidence Act, 1856,” *

“The Evidence by Commission Act, 1859,” †

“The Evidence by Commission Act, 1885,” ‡ or so much thereof as is for the time being in force, and any enactment for the time being in force amending or substituted for the same, are hereby extended to the Ottoman dominions, with the adaptations following, namely:—

In the said Acts the Supreme Court is hereby substituted for a Supreme Court in a Colony.

145. The following Acts, namely:—

“The British Law Ascertainment Act, 1859.”

“The Foreign Law Ascertainment Act, 1861,” or so much thereof as is for the time being in force, and any enactment for the time being in force amending or substituted for the same, are hereby extended to the Ottoman dominions, with the adaptation following, namely:—

In the said Acts the Supreme Court is hereby substituted for a Superior Court in a Colony.

146. If in any case, civil or criminal, a British subject wilfully gives false evidence on oath in the Court, or on a reference, he shall be deemed guilty of wilful and corrupt perjury.

147. The Supreme Court may, if it thinks fit, order that a Commission do issue for examination of witnesses at any place out of the Ottoman dominions, on oath, by interrogatories or otherwise, and may, by order, give such directions touching the time, place, and manner of the examination, or anything connected therewith, as to the Court appear reasonable and just.

* 19 & 20 Vict. c. 113.

† 22 Vict. c. 20.

‡ 48 & 49 Vict. c. 74.

148.—(1.) Every male resident subject,—being of the age of 21 years or upwards,—having a competent knowledge of the English language,—having or earning a gross income at such rate as may be fixed by Rules of Court,—not having been attainted of treason or felony, or convicted of any crime that is infamous (unless he has obtained a free pardon),—and not being under outlawry,—shall be qualified to serve on a jury.

(2.) All persons so qualified shall be liable so to serve, except the following :—

- Persons in Her Majesty's Diplomatic, Consular, or other Civil Service, in actual employment ;
- Officers, clerks, keepers of prisons, messengers, and other persons attached to or in the service of the Court ;
- Officers and others on full pay in Her Majesty's navy or army, or in actual employment in the service of any Department connected therewith ;
- Persons holding appointments in the Civil, naval, or military service of the Sublime Ottoman Porte ;
- Clergymen and ministers in the actual discharge of professional duties ;
- Legal practitioners in actual practice ;
- Physicians, surgeons, and apothecaries in actual practice ;
- Persons disabled by mental or bodily infirmity.

(3.) A jury shall consist of five jurors.

(4.) In civil and in criminal cases the like challenges shall be allowed as in England,—with this addition, that in civil cases each party may challenge three jurors peremptorily

(5.) A jury shall be required to give an unanimous verdict.

(6.) Where there is to be a hearing with a jury, the Court shall summon so many of the persons comprised in the jury list, not fewer than twelve, as seem requisite.

(7.) Any person failing to attend according to the summons shall be deemed guilty of a contempt of Court, and shall be liable to a fine not exceeding 10*l*.

149.—(1.) An Assessor shall be a competent and impartial subject, of good repute, resident in the district of the particular Court, and nominated and summoned by the Court for the purpose of acting as Assessor.

(2.) In the Supreme Court there may be one Assessor or two Assessors, as the Court thinks fit.

(3.) In a Provincial Court there shall ordinarily be not fewer than two, and not more than four, Assessors. Where, however, by reason of local circumstances, the Court is able to obtain the presence of one Assessor only, the Court may, if it thinks fit, sit with one Assessor only : and where, for like reasons, the Court is not able to obtain the presence of any Assessor, the Court may, if it thinks fit, sit without an Assessor,—the Court, in every case, recording in the Minutes its reasons for sitting with one Assessor only or without an Assessor.

(4.) An Assessor shall not have any voice in the decision of

the Court in any case, civil or criminal; but an Assessor dissenting, in a civil case, from any decision of the Court, or, in a criminal case, from any decision of the Court or the conviction or the amount of punishment awarded, may record in the Minutes his dissent, and the grounds thereof, and shall be entitled to receive, without payment, a certified copy of the Minutes. An Assessor dissenting shall be entitled to receive, without payment, a certified copy of the Minutes.

Part VI.—Ottoman and Foreign Subjects and Tribunals.

150.—(1.) Where an Ottoman subject or foreigner desires to institute or take in the Court an action against a British subject, or a British subject desires to institute or take in the Court an action against an Ottoman subject or foreigner, the Court shall entertain the same, and shall hear and determine it, either by the Court sitting alone, or, if all parties desire, or the Court, having regard to its jurisdiction, thinks fit to direct, a trial with a jury or Assessors, then with a jury or Assessors, but in all other respects according to the ordinary course of the Court.

(2.) Provided that the Ottoman subject or foreigner, if so required by the Court, first obtains and files in the Court the consent in writing of the competent authority on behalf of the Sublime Ottoman Porte or of his own nation (as the case may be) to his submitting, and does submit, to the jurisdiction of the Court, and, if required by the Court, give security to the satisfaction of the Court, and to such reasonable amount as the Court thinks fit, by deposit or otherwise, to pay fees, damages, costs, and expenses, and abide by and perform such decision as shall be given by the Court or on appeal.

(3.) A cross-action shall not be brought in the Court against a plaintiff, being an Ottoman subject or foreigner who has submitted to the jurisdiction, by a defendant, without leave of the Court first obtained, but the Court may, as a condition of entertaining the plaintiff's action, require his consent to any cross-action or matter of set-off being entertained by the Court.

(4.) The Court before giving leave may require proof from the defendant that his claim arises out of the matter in dispute, and that there is reasonable ground for it, and that it is not made for vexation or delay.

(5.) Nothing in this Article shall prevent the defendant from bringing in the Court any action against the Ottoman subject or foreigner after the termination of the action in which the Ottoman subject or foreigner is plaintiff.

(6.) Where an Ottoman subject or foreigner obtains in the Court an order against a defendant being a British subject, and in another suit that defendant is plaintiff and the Ottoman subject or foreigner is defendant, the Court may, if it thinks fit, on the application of the British subject, stay the enforcement of the order pending that other suit, and may set off any amount ordered to be paid by one party in one suit against any amount ordered to be paid by the other party in the other suit.

(7.) Where a plaintiff, being an Ottoman, subject or foreigner, obtains an order in the Court against two or more defendants being British subjects jointly, and in another action one of them is plaintiff and the Ottoman subject or foreigner is defendant, the Court may, if it thinks fit, on the application of the British subject, stay the enforcement of the order pending that other action, and may set off any amount ordered to be paid by one party in one action against any amount ordered to be paid by the other party in the other action, without prejudice to the right of the British subject to require contribution from his co-defendants under the joint liability.

(8.) Where an Ottoman subject or foreigner is co-plaintiff in a suit with a British subject who is within the particular jurisdiction, it shall not be necessary for the Ottoman subject or foreigner to give security for costs, unless the Court so directs, but the co-plaintiff British subject shall be responsible for all fees and costs.

151.—(1.) Where it is proved that the attendance within the particular jurisdiction of a British subject to give evidence, or for any other purpose connected with the administration of justice, is required in a Court or before a judicial officer of the Sublime Ottoman Porte, or of a State in amity with Her Majesty, the Court may, if it thinks fit, in a case and in circumstances in which the Court would require his attendance before the Court, order that he do attend in such Court, or before such judicial officer, and for such purpose as aforesaid.

(2.) If the person ordered to attend, having reasonable notice of the time and place at which he is required to attend, fails to attend accordingly, and does not excuse his failure to the satisfaction of the Court, he shall (independently of any other liability) be guilty of an offence against this Order.

152. When a British subject invokes or submits to the jurisdiction of an Ottoman or Foreign Tribunal, and engages in writing to abide by the decision of such Tribunal, or to pay any fees or expenses ordered by such Tribunal to be paid by him, any Court under this Order may, on such evidence as it thinks fit to require, enforce payment of such fees and expenses in the same manner as if they were fees payable in a proceeding by such person in that Court, and shall pay over or account for the same when levied to the proper Ottoman or foreign authority, as the Court may direct.

153.—(1.) Subject to the Rules, persons competent to be Assessors in any Court under this Order may be required to attend as Assessors in cases in which British subjects are parties before any Ottoman Tribunal; but every Assessor so required must be acquainted with the French or Turkish language.

(2.) Any Rules made by the Supreme Court in pursuance and in accordance with the provisions of this Order may comprise Rules respecting the qualification, selection, appointment, registration, attendance, and remuneration of Assessors in such cases as aforesaid, and respecting the establishment in any part of the Ottoman dominions, and the regulation of a fund, hereinafter

called an Assessors' Fund, for the remuneration of Assessors before any Ottoman Tribunals in such part of the Ottoman dominions.

(3.) Such Rules may provide for compelling the service of any qualified person and may prescribe penalties for neglect or refusal, without reasonable excuse, to serve in accordance with the terms of such regulations. Such penalties shall not exceed the equivalent of 5*l.* in respect of any one day.

(4.) Any such penalties shall be recoverable in the Court as a civil debt by any Consular officer, and shall be carried to the Assessors' Fund.

(5.) Every person requiring the attendance of one or more Assessors may be required to pay in advance such fee or fees as the Rules direct.

(6.) The Court may, out of any moneys in its hands arising from fees of Court or other fees, or moneys received under this Order, advance or pay the amount of the salary or remuneration of an Assessor.

(7.) The Court shall account for all receipts and payments in respect of the Assessors' Fund in such manner as the Secretary of State directs.

154.—(1.) If a British subject—

(i.) Publicly derides, mocks, or insults any religion established or observed within the Ottoman dominions ; or

(ii.) Publicly offers insult to any religious service, feast, or ceremony established or kept in any part of those dominions, or to any place of worship, tomb, or sanctuary belonging to any religion established or observed within those dominions, or belonging to the ministers or professors thereof ; or

(iii.) Publicly and wilfully commits any act tending to bring any religion established or observed within those dominions, or its ceremonies, mode of worship, or observances, into hatred, ridicule, or contempt, and thereby to provoke a breach of the public peace ; he shall be guilty of an offence, and on conviction thereof, before the Supreme Court or a Provincial Court, liable to imprisonment not exceeding two years, with or without hard labour, and with or without a fine not exceeding 100*l.*, or to a fine alone not exceeding 100*l.*

(2.) Notwithstanding anything in this Order, every charge under this Article shall be heard and determined by the Court alone, without jury or assessors, and any Provincial Court shall have power to impose the punishment aforesaid.

(3.) Consular officers shall take such precautionary measures as seem to them proper and expedient for the prevention of such offences.

155.—(1.) If a British subject—

(i.) Smuggles, or attempts to smuggle, out of the Ottoman dominions, any goods on exportation whereof a duty is payable to the Ottoman or Egyptian Government ;

- (ii.) Imports or exports, or attempts to import or export, into or out of the Ottoman dominions any goods, intending and attempting to evade payment of duty payable thereon to the Ottoman or Egyptian Government ;
 - (iii.) Imports or exports, or attempts to import or export, into or out of the Ottoman dominions, any goods the importation or exportation whereof into or out of the Ottoman dominions is prohibited by law ;
 - (iv.) Without a proper licence, sells, or attempts to sell, or offers for sale, in the Ottoman dominions, any goods whereof the Ottoman or Egyptian Government has by law a monopoly ;
- in each of the four cases aforesaid he shall be guilty of a grave offence against this Order.

(2.) Where a person is charged with such an offence as in this Article is mentioned, the Court may seize the goods in relation to which the alleged offence was committed, and may hold the same until after the hearing of the charge.

(3.) If a person so charged is convicted, then those goods, whether they have been so seized or not, shall be forfeited to Her Majesty the Queen ; and the Court shall either deliver them to the proper Ottoman or Egyptian officer, for the use of the Ottoman or Egyptian Government, as the case may be, or shall dispose of them otherwise, as the Court thinks fit.

156.—(1.) Where by agreement among the Diplomatic or Consular Representatives in the Ottoman dominions of foreign States, or some of them, in conjunction with the Ottoman or Egyptian authorities, sanitary, or police, or port, or game, or other regulations are established, and the same, as far as they affect British subjects, are approved by the Secretary of State, the Court may, subject and according to the provisions of this Order, entertain any complaint made against a British subject for a breach of those regulations, and may enforce payment of any fine incurred by that subject or person in respect of that breach, in like manner, as nearly as may be, as if that breach were by this Order declared to be an offence against this Order.

(2.) In any such case the fine recovered shall, notwithstanding anything in this Order, be disposed of and applied in manner provided by those regulations.

157. Every person subject to the criminal jurisdiction of the Court who prints, publishes, or offers for sale any printed or written newspaper or other publication containing matter calculated to excite tumult or disorder, or to excite enmity between Her Majesty's subjects and the Government of any part of the Ottoman dominions, or between that Government and its subjects, shall be guilty of an offence against this Order, and may, in addition to or in lieu of any other punishment, be ordered to give security for good behaviour ; and in default thereof, or on a further conviction for the like offence, he may be ordered to be deported.

An offence against this Article shall not be tried except by the Supreme Court.

Part VII.—Miscellaneous.

158.—(1.) If an officer of the Court employed to execute an order loses by neglect or omission the opportunity of executing it, then, on complaint of the person aggrieved, and proof of the fact alleged, the Court may, if it thinks fit, order the officer to pay the damages sustained by the person complaining, or part thereof.

(2.) The order shall be enforced as an order directing payment of money.

159.—(1.) If a clerk or officer of the Court, acting under pretence of the process or authority of the Court, is charged with extortion, or with not paying over money duly levied, or with other misconduct, the Court, if it thinks fit, may inquire into the charge in a summary way, and may for that purpose summon and enforce the attendance of all necessary persons, as in an action, and may make such order for the repayment of any money extorted, or for the payment over of any money levied, and for the payment of such damages and costs, as the Court thinks fit.

(2.) The Court may also, if it thinks fit, on the same inquiry, impose on the clerk or officer such fine, not exceeding 5*l.* for each offence, as the Court thinks fit.

(3.) A clerk or officer punished under this Article shall not be liable to an action in respect of the same matter; and any such action, if begun, shall be stayed by the Court in such manner and on such terms as the Court thinks fit.

160.—(1.) If any person, subject to the criminal jurisdiction of a Court, does any of the following things, namely :—

(a.) Wilfully, by act or threat, obstructs an officer of, or person executing any process of, the Court in the performance of his duty; or

(b.) Within or close to the room or place where the Court is sitting wilfully misbehaves in a violent, threatening, or disrespectful manner, to the disturbance of the Court, or to the intimidation of suitors or others resorting thereto; or

(c.) Wilfully insults any member of the Court, or any Assessor or juror, or any person acting as a clerk or officer of the Court, during his sitting or attendance in Court, or in his going to or returning from Court; or

(d.) Does any act in relation to the Supreme Court or a Provincial Court, or a matter pending therein, which, if done in relation to the High Court in England, would be punishable as a contempt of that Court;

He shall be guilty, in the case of the Supreme Court or a Provincial Court of a grave offence, and in the case of a Local Court of an offence, against this Order :

Provided that the Supreme Court or a Provincial Court, if it thinks fit, instead of directing proceedings as for an offence against this Order, may order the offender to be apprehended forthwith, with or without warrant, and on inquiry and consideration, and after the hearing of any defence which such person may offer, without further process or trial, may adjudge him to be punished with a fine not exceeding 10*l.*, or with imprisonment not exceeding twenty-four hours, at the discretion of the Court.

(2.) A Minute shall be made and kept of every such case of punishment, recording the facts of the offence, and the extent of the punishment. In the case of a Provincial Court, a copy of the Minutes shall be forthwith sent to the Supreme Court, and in the case of a Local Court to the Provincial Court.

(3.) Nothing herein shall interfere with the power of the Court to remove or exclude persons who interrupt or obstruct the proceedings of the Court.

161. Nothing in this Order shall deprive the Court of the right to observe, and to enforce the observance of, or shall deprive any person of the benefit of, any reasonable custom existing in the Ottoman Dominions, unless this Order contains some express and specific provision incompatible with the observance thereof.

162. Nothing in this Order shall prevent any Consular officer in the Ottoman dominions from doing anything which Her Majesty's Consuls in the dominions of any other State in amity with Her Majesty are, for the time being, by law, usage, or sufferance, entitled or enabled to do.

163. The Ambassador and the Judge of the Supreme Court shall have power to make and alter Regulations (to be called Queen's Regulations) for the following purposes, that is to say :—

- (1.) For securing the observance of any Treaty for the time being in force relating to any place to which this Order applies, or of any native or local law or custom, whether relating to trade, commerce, revenue, or any other matter.
- (2.) For the peace, order, and good government of British subjects within any such place in relation to matters not provided for by this Order.
- (3.) For requiring Returns to be made of the nature, quantity, and value of articles exported from or imported into his district, or any part thereof, by or on account of any British subject who is subject to this Order, or in any British ship, and for prescribing the times and manner at or in which, and the persons by whom, such Returns are to be made.
- (4.) For the governance, visitation, care, and superintendence of prisons.

Any Regulations made under this Article may provide for forfeiture of any goods, receptacles, or things in relation to which, or to the contents of which, any breach is committed of such

Regulations, or of any Treaty or any native or local law or custom, the observance of which is provided for by such Regulations.

Any Regulation made under this Article shall when allowed by the Secretary of State, and published as he directs, have effect as if contained in this Order.

164.—(1.) Her Majesty's Consuls in the Ottoman dominions may levy dues not exceeding the rate of 2*d.* a-ton on every British merchant-ship (*a*) visiting or passing Constantinople, or visiting any other port in a Consular district, or (*b*) being at any other place within the Consular district of Constantinople, and having occasion to send any seaman to the British hospital at Constantinople.

The produce of the said dues shall be applied towards the establishment, maintenance, and support, in the Ottoman dominions, of British hospitals; and the dues shall be called hospital dues.

The Secretary of State may, by writing under his hand, issue such instructions as to him seem fit, for the following purposes, or any of them (that is to say):—

For fixing (within the limit of 2*d.* a-ton) the rate per ton at which the hospital dues are to be levied at any port;

For exempting any ship in respect whereof, within any defined period, the hospital dues have once been paid, from any further payment thereof;

For regulating the application of the produce of the hospital dues;

For limiting the extent to which any Consul shall exercise jurisdiction over British subjects in the Ottoman dominions in any matter relating to the hospital dues.

(2.) A further fee of 10*s.* shall be charged at Her Majesty's Consulate at Constantinople for each application for a Firman, or Firmans, for each British ship in order to pass the Straits.

(3.) Any master of a British ship who fails to pay the said dues or fee, or evades the payment thereof, shall be guilty of an offence against this Order, and the amount of such dues or fee, and of any fine imposed, may be levied by seizure and sale of the ship.

(4.) No dues under this Article shall be levied in Egypt unless the Secretary of State shall by order so direct.

165.—(1.) Every British subject resident shall, in January in every year, register himself at the Consulate of the Consular district within which he is resident; provided that—

(*a.*) The registration of a man shall comprise the registration of his wife, if living with him; and

(*b.*) The registration of the head of a family shall be deemed to comprise the registration of all females and minors being his relatives, in whatever degree, living under the same roof with him at the time of his registration.

(2.) The Consular officer may, without fee, register any British subjects being minors living in the houses of foreigners or Ottoman subjects.

(3.) Every British subject arriving at a place in the Ottoman dominions where there is a Consular office, unless borne on the muster-roll of a British ship there arriving, shall, on the expiration of one month after arrival be deemed for the purposes of this Article to be resident, and shall register himself accordingly.

(4.) A person shall not be required to register himself oftener than once in a year, reckoned from the 1st January.

(5.) The Consular officer shall yearly give to each person registered by him a certificate of registration, signed by him and sealed with his Consular seal.

(6.) The name of a wife, if her registration is comprised in her husband's, shall, unless in any case the Consular officer sees good reason to the contrary, be indorsed on the husband's certificate.

(7.) The names and descriptions of females and minors whose registration is comprised in that of the head of the family shall, unless in any case the Consular officer sees good reason to the contrary, be indorsed on the certificate of the head of the family.

(8.) In the case of a British-protected person, the date of issue and the duration of the certificate shall be indorsed in Turkish or Arabic on the certificate.

(9.) Every person shall, on every registration of himself, pay a fee of 2s. 6d., or such other fee as the Secretary of State from time to time appoints.

(10.) The amount of the fee may be uniform for all persons, or may vary according to the position and circumstances of different classes, if the Secretary of State from time to time so directs, but may not in any case exceed 5s.

(11.) Every person by this Order required to register himself or herself shall, unless excused by the Consular officer, attend personally for that purpose at the Consulate, on each occasion of registration.

(12.) If any person fails to comply with the provisions of this Order respecting registration, and does not excuse his or her failure to the satisfaction of the Consular officer, he or she shall be guilty of an offence against this Order, and any Court or authority, may, if it thinks fit, decline to recognize him as a British subject.

166. Except as in this Order otherwise provided, all fees, dues, fines, and other receipts under this Order shall be carried to the public account, and shall be accounted for and paid as the Secretary of State, with the concurrence of the Treasury, directs.

167. Where, by virtue of this Order or otherwise, any Imperial Act, or any Law in force in a British Possession, Colony, or Settlement, is applicable in any place within the limits of this Order, such Act or Law shall be deemed applicable so far only as the constitution and jurisdiction of the Courts acting under this Order and the local circumstances permit, and, for the purpose of facilitating the application of any such Act or Law, it may be construed with such alterations and adaptations not affecting the substance as may be necessary, and anything by such Act or Law required to be done by or to any Court, Judge, officer,

or authority may be done by or to a Court, Judge, officer, or authority having the like or analogous functions, or by or to any officer designated by the Court for that purpose, and the seal of the Court may be substituted for any seal required by any such Act or Law ; and in case any difficulty occurs in the application of any such Act or Law, it shall be lawful for the Secretary of State to direct by and to whom, and in what manner, anything to be done under such Act or Law is to be done, and such Act or Law shall, in its application to matters arising within the limits of this Order, be construed accordingly.

168. Not later than the 31st March in each year, the Judge shall send to the Secretary of State a report on the operation of this Order up to the 31st January in that year, showing for the then last twelve months the number and nature of the proceedings, criminal and civil, taken in the Court under this Order, and the result thereof, and the number and amount of fees received, and containing an abstract of the registration list, and such other information, and being in such form, as the Secretary of State from time to time directs.

169.—(1.) A printed copy of this Order shall be always kept exhibited in a conspicuous place in each Consular office and in each Court-house.

(2.) Printed copies shall be sold at such reasonable price as the Supreme Court directs.

(3.) Judicial notice shall be taken of this Order, and of the commencement thereof, and of the appointment of Consuls, and of the constitution and limits of the Courts and districts, and of Consular seals and signatures, and of any Rules made or in force under this Order, and no proof shall be required of any of such matters.

The provisions of "The Evidence Act, 1851" (14 & 15 Vict. cap. 99), secs. 7 and 11, relating to the proof of judicial and other documents, shall extend and be applied for all purposes as if the Courts, districts, and places to which this Order applies were in a British Colony.

170.—(1.) The Orders in Council mentioned in the Schedule to this Order are hereby repealed, but this repeal shall not—

- (i.) Affect the past operation of those Orders, or either of them, or any appointment made, or any right, title, obligation, or liability accrued, or the validity or invalidity of anything done or suffered under any of those Orders, before the making of this Order ;
- (ii.) Interfere with the institution or prosecution of any proceeding or action, criminal or civil, in respect of any offence committed against, or forfeiture incurred or liability accrued under or in consequence of any provision of any of those Orders, or any Regulation made thereunder ;
- (iii.) Take away or abridge any protection or benefit given or to be enjoyed in relation thereto.

(2.) Notwithstanding the repeal of the Orders aforesaid, or any other thing in this Order, every Regulation, appointment, and other thing in this Article mentioned, shall continue and be as if this Order had not been made ; but so that the same may be revoked, altered, or otherwise dealt with under this Order, as if it had been made or done under this Order.

(3.) Criminal or civil proceedings begun under any of the Orders in Council repealed by this Order, and pending at the time when this Order comes into operation, shall, from and after that time, be regulated by the provisions of this Order, as far as the nature and circumstances of each case admits.

(4.) Lists of jurors and assessors in force at the passing of this Order shall continue in force until revised and settled under the provisions of this Order.

171.—(1.) This Order shall take effect at the expiration of one month after it is first exhibited in the public office of the Supreme Court at Constantinople.

(2.) For that purpose the Judges of the Supreme Court shall forthwith, on the receipt by him from the Ambassador of a certified printed copy of this Order, cause the same to be affixed and exhibited conspicuously in that office.

(3.) He shall also keep the same so affixed and exhibited during one month from that first exhibition.

(4.) Notice of the time of that first exhibition shall, as soon as practicable, be published in the office of the Agency for Egypt and at each of the Provincial Consulates in such manner as the Supreme Court may direct.

(5.) A certified printed copy of this Order shall also be affixed and exhibited in the public offices of the Consular Courts at Alexandria and Cairo, at the same time (or as near as circumstances admit) at which it is first exhibited at Constantinople. Proof shall not in any proceeding or matter be required that the provisions of this Article have been complied with, nor shall any act or proceeding be invalidated by any failure to comply with any of such provisions.

(6.) The day on which this Order so takes effect is in this Order referred to as the commencement of this Order.

(7.) Where this Order confers power to make any appointment, Order, Rules, or Regulations, or to do any any other thing for the purposes of the Order, that power may be exercised at any time after the passing of this Order, so, however, that any such appointment, Order, Rules, or Regulations shall not take effect before the commencement of this Order.

172. This Order may be cited as "The Ottoman Order in Council, 1899."

A. W. FitzRoy.

*Schedule.**Orders repealed.*

Order made by Her Majesty in Council on the 22nd April, 1872,* fixing the fee to be levied on application for a Firman for British ships passing the Straits.

"The Ottoman Order in Council, 1873."†

Order made by Her Majesty in Council on the 7th July, 1874,‡ amending Article 14 of "The Ottoman Order in Council, 1873."†

Order made by Her Majesty in Council on the 5th February, 1876,§ suspending the operation of the Ottoman Order in Council as regards matters coming within the jurisdiction of certain Egyptian Courts.

"The Ottoman Order in Council, 1882."||

"The Ottoman Order in Council, 1890."¶

Order made by Her Majesty in Council on the 23rd February, 1891,** fixing a Table of Fees to be taken in Her Majesty's Consular Courts in the Ottoman dominions.

"The Ottoman Tribunals Order in Council, 1891."††

"The Ottoman Dominions (Prisoners Removal) Order in Council, 1895."‡‡

"The Ottoman Dominions (Courts) Order in Council, 1895."§§

"The Ottoman Dominions (Supreme Court) Order in Council, 1896."|||

* Published in the "London Gazette," April 23, 1872, p. 1987.

† Printed in Statutory Rules and Orders Revised (1st Edition), Vol. 3, p. 587.

‡ Printed in Statutory Rules and Orders Revised (1st Edition), Vol. 3, p. 688.

§ Printed in Statutory Rules and Orders Revised (1st Edition), Vol. 3, p. 690.

|| Printed in Statutory Rules and Orders Revised (1st Edition), Vol. 3, p. 691.

¶ Printed in Statutory Rules and Orders, 1890, p. 707.

** Printed in Statutory Rules and Orders, 1891, p. 300.

†† Printed in Statutory Rules and Orders, 1891, p. 305.

‡‡ Printed in Statutory Rules and Orders, 1895, p. 268.

§§ Printed in Statutory Rules and Orders, 1895, p. 269.

||| Printed in Statutory Rules and Orders, 1896, p. 120.

(St. R. & O. Revised to December 31, 1903.)

FORTIFICATIONS, COLONIES.

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|-------------------------------------|--------------------------------------|
| 1. <i>Canada</i> , p. 1. | 5. <i>Queensland</i> , p. 15. |
| 2. <i>Cape of Good Hope</i> , p. 4. | 6. <i>Tasmania</i> , p. 17. |
| 3. <i>Mauritius</i> , p. 5. | 7. <i>Western Australia</i> , p. 18. |
| 4. <i>New South Wales</i> , p. 6. | |

1. Canada.

THE CANADIAN MILITARY LANDS ORDER, 1882.

At the Court at Osborne House, Isle of Wight, the 18th day of August, 1882.

PRESENT :

The Queen's Most Excellent Majesty.

Lord Privy Seal.

Lord Monson.

Mr. Gladstone.

Whereas it hath been represented to Her Majesty by the Earl of Kimberley, one of Her Majesty's Principal Secretaries of State, and by the Lords Commissioners of Her Majesty's Treasury, that it is expedient, by Order in Council, pursuant to the Colonial Fortifications Act, 1877,* to vest in the Governor-General of Canada the fortifications, works, buildings, and land, hereinafter specified, being situate in the provinces of Nova Scotia and Prince Edward Island, and held in trust for the defence of the Dominion of Canada, and the care and disposal of the said fortifications, works, buildings, and land, together with all estate and interest therein; on condition that, if at any future period troops are sent to Canada at the request of the local Government, or in furtherance of Canadian interests the Dominion Government shall provide them with barracks or lodging to the satisfaction of Her Majesty's Government :

And whereas the said representation was laid before both Houses of Parliament, and lay for not less than 40 days on the table of both Houses before it was submitted to Her Majesty :

Now, therefore, Her Majesty doth order, by and with the advice of Her Privy Council, and in pursuance of the powers

* 40 & 41 Vict. c. 23.

vested in Her by the Colonial Fortifications Act, 1877,* as follows :—

1. The several fortifications, works, buildings, and land, enumerated in the schedule hereunder written, and the care and disposal thereof, and the freehold thereof shall, subject to the before-mentioned condition be and the same are hereby vested in the Governor-General of Canada in fee simple for the public purposes of the Dominion.

2. This Order may be cited as "The Canadian Military Lands Order, 1882."

C. L. Peel.

Schedule.

Station.	Property.	Area.	Tenure.
		A. R. P.	
Chester . .	Traday's Point with right of way.	3 0 0	Freehold Vesting Act, 1843. Right of way granted by A. Traday 11th August 1856.
Lunenburg .	Jesson's Point . .	1 0 0	Freehold Vesting Act, 1843.
	Jesson's Point . .	1 0 0	Freehold bought from Jesson for 25s. Deed 29th January 1858.
	Jesson's Point Water lot.	—	Freehold bought for 5s. from Governor and Council 6th February 1858.
	Jesson's Point Site of old redoubt.	1 0 0	Freehold Vesting Act, 1843.
Liverpool .	Battery Point . .	0 2 15	Freehold title disputed by the Provincial Government.
	Battery Point Water lot.	—	Freehold bought of Government and Council for 5s. 6th February 1858.
Shelbourne .	Battery Point . .	2 0 0	Freehold Vesting Act, 1843.
	Battery Point Water lot.	—	Freehold bought from Government and Council 6th February 1858.
	Barrack land . .	200 0 0	Freehold Vesting Act, 29th March 1843.
	Barrack land Water lot.	—	Freehold bought from Government and Council 6th February 1858.
	Carleton Point . .	163 0 0 (103 acres granted away to C. L. 1806 resumable for military purposes).	Freehold Vesting Act, 1843.
	Carleton Point Water lot.	—	Freehold bought from Government and Council, 6th February 1858.
	Hart's Point . .	636 0 0 (The whole granted away to C. L. resumable for military purposes).	
	Burnt Head . .	120 0 0 (The whole granted away to C. L. resumable for military purposes).	

Original reserve in 1782.

* 40 & 41 Vict. c. 23.

Station.	Property.	Area.	Tenure.
Shelbourne— cont.	Burnt Head Water lot.	A. R. P. —	Freehold bought of Government and Council, 6th February 1858.
	Sandy Point . . .	112 0 0 (The whole granted away to C. L. re- sumable for military purposes).	Reserve of 1782.
	Sandy Point Water lot.	—	Freehold Government and Council, 6th February 1858.
	Stoke's Head . . .	241 0 0	Reserve of 1782. The whole granted in 1784 to private individuals but resumable for military purposes.
	McNatt's Island . .	11 2 0	Freehold Vesting Act, 1843.
	McNatt's Island Water lot.	—	Freehold bought from Government and Council, 6th February 1858.
	McNatt's Island reserve.	23 0 0	Freehold Vesting Act, 1843.
	McNatt's Island Water lot.	—	Freehold Government and Council, 6th February 1858.
Yarmouth . . .	Cape Torchu . . .	8 3 25 (10A. 0B. 0P. per deed).	Freehold township grant in 1767.
	Cape Torchu Water lot.	—	Freehold Government and Council, 6th February 1858.
Digby . . .	Blockhouse lot . .	1 0 0	Freehold bought from Mary Hughes for 17l. 10s. Deed 22nd August 1837.
	Queen's Battery site .	0 0 25	Freehold Vesting Act, 1843.
	Queen's Battery site water.	—	Freehold Government and Council, 6th February 1858.
	Rocket Point, including Water lot.	13 0 0	Vesting Act, 1843. Government and Council, 6th February 1858.
	Regent's Battery . .	1 0 0	Freehold bought from M. Grant for 81l. 8s. 5d., 2nd September 1813.
	Regent's Battery Water lot.	—	Government and Council, 6th February 1858.
Annapolis . . .	Digby . . .	150 0 0	Freehold Government and Council, 6th February 1858.
	Engineer's lot . . .	0 0 30	Freehold Vesting Act, 1843.
	Fort Anne . . .	31 1 3	Freehold Vesting Act, 1843.
	Water lot . . .	—	Freehold Government and Council, 6th February 1858.
Pictou . . .	Battery site . . .	0 2 4	Freehold bought from A. Ross for 100l., 6th December 1854.
Guysborough .	Fort Point . . .	3 0 0	Freehold Vesting Act, 1843.
Cape Breton .	Sydney . . .	21 3 7	Vesting Act, 1843.
	Point Edward . . .	10 0 0	Vesting Act, 1843.
	Blockhouse Point . .	2 1 7	Vesting Act, 1843.
	Flagstaff Point . . .	1 0 0	Vesting Act, 1843.
	South Bar . . .	—	Grant, 13th November 1794.
	Chapel Point . . .	4 1 20	Bought of General Mining Association for 1s., dated 25th June 1862.
Prince Edward Island . . .	Charlotte Town . .	1 1 0	Grant, 26th August 1867.
	Blockhouse Fort . .	20 0 0	Grant, 17th January 1850.
	Crab Point reserve .	10 0 0	Grant, 17th January 1850.

2. Cape of Good Hope.

THE CAPE OF GOOD HOPE (EASTERN PROVINCE) FORTIFICATION ORDER, 1882.

At the Court at Windsor, the 3rd day of May, 1882.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.

Lord Privy Seal.

Lord Stewart.

Secretary Sir William Vernon Harcourt.

Whereas it hath been represented to Her Majesty by the Right Honourable the Earl of Kimberley, one of Her Majesty's Principal Secretaries of State, and by the Lords Commissioners of Her Majesty's Treasury, that it is expedient, by Order in Council pursuant to the Colonial Fortifications Act, 1877,* to vest in the Governor of the Colony of the Cape of Good Hope the fortifications, works, buildings, and land herein-after specified, being situate in the said Colony, and held in trust for the defence thereof, and the care and disposal of the said fortifications, works, buildings, and land, together with all estate and interest therein :

And whereas the said representation was laid before both Houses of Parliament, and lay for not less than forty days on the table of both Houses before it was submitted to Her Majesty :

Now, therefore, Her Majesty doth order, by and with the advice of Her Privy Council, and in pursuance of the powers vested in Her by the Colonial Fortifications Act, 1877,* as follows :—

1. The several fortifications, works, buildings, and land enumerated in the Schedule hereunder written, and the care and disposal thereof, and the freehold thereof, shall be and the same are hereby vested in the Governor of the Colony of the Cape of Good Hope in fee simple for the public purposes of the said Colony ; subject to the condition that if at any future period Her Majesty's troops are sent to the Colony at the request of the Governor, then the Colonial Government will provide such troops with lodging to the satisfaction of Her Majesty's Government.
2. This Order may be cited as " The Cape of Good Hope (Eastern Province) Fortifications Order, 1882."

C. L. Peel.

* 40 & 41 Vict. c. 23.

Schedule of War Department Lands, &c. to be handed over to the Government of the Cape of Good Hope.

Eastern Districts.
 House at Fort Peddie.
 Cawoods Post and Reserve.
 Erf No. 21, Fort Beaufort.
 Erfs Nos. 25, 28 and 9 ditto.
 A piece of land at Drostdy Barracks by Exchange.
 Officers' Quarters at Graham's-town.

3. Mauritius.

THE MAURITIUS FORTIFICATIONS ORDER, 1879.

At the Court of Windsor, the 26th day of June, 1879.

PRESENT :

The Queen's Most Excellent Majesty.
 His Royal Highness Prince Leopold.

Lord President.
 Lord Privy Seal.
 Sir Michael E. Hicks-Beach, Bart.

Whereas it hath been represented to Her Majesty by the Right Honourable Sir Michael Edward Hicks Beach, Baronet, one of Her Majesty's Principal Secretaries of State, and by the Lords Commissioners of Her Majesty's Treasury, that it is expedient, by Order in Council, pursuant to the Colonial Fortifications Act, 1877,* to vest in the Governor of the Colony of Mauritius the fortifications, works, buildings, and land hereinafter specified, being situate in the said Colony and held in trust for the defence thereof, and the care and disposal of the said fortifications, works, buildings, and land, together with all estate and interest therein :

And whereas the said representation was laid before both Houses of Parliament and lay for not less than forty days on the table of both Houses before it was submitted to Her Majesty :

Now, therefore, Her Majesty doth order, by and with the advice of Her Privy Council, and in pursuance of the powers vested in Her by the Colonial Fortifications Act, 1877,* as follows :—

1. The several fortifications, works, buildings, and land enumerated in the Schedule hereunder written, and the care and disposal thereof, and the property, freehold, possession, and enjoyment thereof, shall be and the same are hereby vested in the Governor of the Colony of Mauritius for the public purposes of the said Colony.

2. This Order may be cited as "The Mauritius Fortifications Order, 1879."

C. L. Peel.

* 40 & 41 Vict. c. 23.

Schedule.

No.	Area.			Name.
	A.	R.	P.	
3	37	0	0	Fort William (part of), all except the point on which the Fort stands.
4	38	3	38	Signal Hill. Squatters Huts.
5	42	0	0	Municipal Reservoirs, Champ de Mars.
10	15	2	10	Royal Engineer Quarters, Workshops, and Barracks.
12	4	0	0	Battery Contl.
16	0	0	0	Quarters for two Ordnance Clerks.
17	0	0	0	Quarters for Storekeeper.
18	0	0	0	Quarters for Storekeeper.

4. New South Wales.

THE NEW SOUTH WALES MILITARY LANDS ORDER IN COUNCIL 1899.

1899. No. 800.

At the Court at Balmoral, the 26th day of October, 1899.

PRESENT :

The Queen's Most Excellent Majesty.

Duke of Fife.

Mr. Akers-Douglas.

Sir Fleetwood Edwards.

Whereas under and pursuant to the provisions of an Act of the Legislative Council of New South Wales passed in the 4th year of Her Majesty's reign intituled " An Act for enabling the Principal Officers of Her Majesty's Ordnance to hold Estates and property in the Colony of New South Wales for Military purposes and for granting certain other powers to the said Principal Officers and respective Officers resident in the said Colony " the several pieces or parcels of land described in the First Schedule hereunder written including the areas excepted out of the pieces or parcels of land sixthly and ninthly described in the said Schedule were by divers Deeds Poll or Grants granted by Her Majesty unto the said Principal Officers of Her Majesty's Ordnance in Great Britain for the time being and their successors in the said Office to hold unto the said Principal Officers of Her Majesty's Ordnance in Great Britain for the time being and their successors in Office for ever for the use and service of the said Ordnance Department or for such other service or services as the said Principal Officers or their successors in the said Office should from time to time order and direct ;

And whereas at the date of the passing of the Imperial Act 18 and 19 Vict. cap. 54 * certain lands situated in the City of Sydney and then known respectively as "The Commissariat Stores" and "Fort Philip or Flagstaff Hill" of which the pieces or parcels of land firstly and secondly described in the Second Schedule hereunder written form part and the piece or parcel of land thirdly described in the said Second Schedule with the Fort thereon erected known as "Fort Macquarie" were reserved appropriated or used for military or Naval purposes but have never been granted for Ordnance purposes :

And whereas under the provisions of the "Crown Lands Alienation Act of 1861" the piece or parcel of land described in the Third Schedule hereunder written was duly dedicated by the Governor with the advice of the Executive Council for the purposes of a Naval Depôt by two several Notices of Dedication published in the *New South Wales Government Gazette* bearing date respectively the 10th day of January 1865 and the 5th day of June 1866 the one comprising portion of the said piece or parcel of land described in the said 3rd Schedule hereunder written and the other comprising the remaining portion thereof :

And whereas negotiations have for some time past been pending between the Colonial and Imperial Governments with regard to Sydney being the head Naval Depôt of Her Majesty's Ships on the Australian Station and an arrangement respecting the Naval Depôt was finally agreed upon between the said Governments on the following terms as embodied in the Colonial Secretary's Minute of the 16th day of April 1883 that is to say :—

- (1.) That immediately on getting the Commodore's formal approval the Colonial Government would proceed to make the necessary reclamations and wharves and to erect the necessary buildings upon Garden Island according to plans to be approved of by the Commodore.
- (2.) That the said Colonial Government would provide by purchase or building on the mainland a suitable residence for the representative of the Navy in these seas and to the satisfaction of the Commodore.
- (3.) That to make more effectual provision for the working of the Naval Station a convenient office or depôt with small receiving store would be erected on the main land and connected by telegraph or telephone with the Garden Island Depôt and with the Commodore's residence so as to give every facility of intercommunication.
- (4.) That as soon as these works were carried out to the satisfaction of the Commodore and the sites of the receiving depôt and of the said residence should be conveyed

* The New South Wales Constitution Act, 1855.

granted or dedicated in perpetuity for the use of Her Majesty's Navy in the same way as Garden Island had been the Imperial Government would surrender all the lands known as the Ordnance Reserves and all other lands or buildings in the Colony to which it might have any claim or title.

And whereas the receiving depôt referred to in paragraph 3 of the herein-before recited agreement has at the request of the Lords Commissioners of the Admiralty been erected on Garden Island :

And whereas the terms of the said Agreement as to the erection of buildings and carrying out of other works by the Colonial Government have been fulfilled to the satisfaction of the Admiral and the site of the aforesaid residence has been purchased by the Colonial Government and duly transferred to and is now vested in Her Majesty subject to the condition that the Colonial Government shall maintain the said residence and the lands thereto appurtenant and belonging in proper condition :

And whereas by an Act of the Imperial Parliament passed in the 40th and 41st years of Her Majesty's reign intituled "An Act to make better provision respecting fortifications works buildings and lands situate in a Colony and held for the defence of the Colony" * it was amongst other things enacted that it should be lawful for Her Majesty on the representation of one of Her Majesty's Principal Secretaries of State and of the Commissioners of Her Majesty's Treasury that it was expedient so to do by Order in Council to vest any fortifications works buildings or land in any Colony held in trust for the defence of that Colony (whether vested in Her Majesty or in one of Her Majesty's Principal Secretaries of State or in the Principal Officers of the Board of Ordnance or in the Commanding Royal Engineer or other Officer) and the care and disposal of such fortifications works buildings or land in the Governor of the Colony for such estate and interest and upon such terms and conditions and subject to such reservations exceptions and restrictions as were specified in the Order. And the Governor for the time being of the Colony should by virtue of that Act and the Order take and hold (subject to the provisions of the Order) the premises transferred to and vested in him accordingly and that every representation to Her Majesty proposed to be made in pursuance of that Act should be laid before both Houses of Parliament and should lie for not less than 40 days on the table of both Houses before it was submitted to Her Majesty :

And whereas it has been represented to Her Majesty by one of Her Majesty's Principal Secretaries of State and the Commissioners of Her Majesty's Treasury that it is expedient to vest in the Governor of the Colony of New South Wales the lands described

* The Colonial Fortifications Act, 1877 (40 & 41 Vict. c. 23).

in the 1st and 2nd Schedules hereunder written with the buildings and works thereon to be taken and held by the Governor for the time being of the said Colony upon the trusts and for the purposes hereinafter declared on condition that if at any future period troops are sent to New South Wales at the request of the local Government or in furtherance of the interests of New South Wales the Government of New South Wales shall provide for such troops free of all charge to Her Majesty's Government barracks or lodging to the satisfaction of Her Majesty's Government :

And whereas the representation so made to Her Majesty as aforesaid was laid before both Houses of Parliament and lay for not less than 40 days on the table of both Houses before it was submitted to Her Majesty and it is expedient that such Order should be made by Her Majesty in respect of the lands described in the First and Second Schedules hereunder written and the buildings and works thereon as is hereinafter contained :

Now therefore Her Majesty by and with the Advice of Her Privy Council in pursuance of the said lastly recited Act and of all other powers enabling Her Majesty in this behalf and in consideration of the premises is pleased to order and it is hereby ordered as follows :—

- (1.) The lands described in the First and Second Schedules hereunder written with the buildings and works thereon shall subject to the before mentioned condition henceforth be and the same are hereby vested in Our Right Trusty and Right Well-Beloved Cousin William Earl Beauchamp Knight Commander of Our Most Distinguished Order of Saint Michael and Saint George the Governor and Commander-in-Chief of the Colony of New South Wales and its Dependencies to the intent that the Governor for the time being of the Colony of New South Wales shall by virtue of the lastly recited Act and this Order take and hold the said lands and the buildings and works thereon upon the trusts and for the purposes hereinafter declared.
- (2.) The Governor for the time being of the said Colony shall take and hold the said lands and the buildings and works thereon upon such trusts and for such purposes and shall deal with the same in such manner as the Governor with the advice of the Executive Council of the said Colony shall by Order in Council direct appoint and determine.
- (3.) For the purpose of giving effect to any Order which shall be made by the Governor with the advice of the Executive Council of the said Colony in respect of the said lands and the buildings and works thereon the Governor for the time being of the said Colony

is hereby empowered to make and execute all such Deeds of Grant surrenders or other assurances as the Governor with the advice of the said Executive Council may direct.

- (4.) This Order may be cited as the New South Wales Military Lands Order in Council 1899.

A. W. FitzRoy.

The First Schedule before referred to.

Firstly.—All that piece or parcel of land in Our said territory containing by admeasurement 16 acres 1 rood and 15 perches be the same more or less situated in the County of Northumberland Parish of Newcastle Town of Newcastle commencing on the eastern extreme of the South boundary line at the sea beach and bounded on the South by a West line of 12 chains on part of the West by a line bearing North seven degrees East 9 chains and 40 links on part of the North by a line bearing East seven degrees South dividing it from the parsonage ground 2 chains and 45 links on the residue of the West by a line dividing it from the Parsonage Allotment bearing North 10 degrees East 2 chains and 65 links to the South side of Church Street on the residue of the North by the South side of Church Street being a line bearing East 7 degrees South 16 chains and 85 links to the Sea Beach and on the East by the Sea Beach Southerly to the Eastern extreme of the South boundary line aforesaid being the land authorised as the site of the Military Barracks.

Secondly.—All that piece or parcel of land in Our said territory containing by admeasurement 14 acres 3 roods and 24 perches be the same more or less situated in the County of Bathurst Parish of Bathurst Town of Bathurst commencing at the North-East corner at the South-West intersection of George and Stanley Streets and bounded Northerly by a line bearing South $41\frac{1}{2}$ degrees West 16 chains 15 links dividing it from George Street Westerly by a line bearing South $48\frac{1}{2}$ degrees East 10 chains dividing it from Durham Street part Southerly by a line bearing North $41\frac{1}{2}$ degrees East 8 chains 50 links dividing it from William Street part Easterly by a line bearing North $48\frac{1}{2}$ degrees West 2 chains dividing it from Correy's Allotment again Southerly by a line bearing North $41\frac{1}{2}$ degrees East 8 chains dividing it from the same allotment and Government land and again Westerly by a line bearing North $48\frac{1}{2}$ degrees West 8 chains dividing it from Stanley Street to the North-East Corner as aforesaid being granted for Military purposes and advertised as No. 10 in the Government Notice dated 6th November 1844.

Thirdly.—All that allotment or parcel of land in Our said territory containing by admeasurement 1 rood and 9 perches be the same more or less situated in the Town of Liverpool Parish of Saint Luke and County of Cumberland bounded on the North by the present wall that divides it from Moore Street being 1 chain and 53 links on the East by the present wall that divides it from the Gaol being 1 chain $99\frac{1}{2}$ links on the South by the present wall that divides it from the old Court House Allotment being 1 chain 55 links and on the West by the present wall dividing it from Blacket's land being 1 chain $99\frac{1}{2}$ links being the site of the Military Barracks and advertised as No. 2 in the Government Notice dated 2nd August 1843.

Fourthly.—All that allotment or parcel of land in Our said territory containing by admeasurement 3 roods and 39 perches be the same more or less situated in the Town of Windsor Parish of Saint Matthew and County of Cumberland bounded on the South-West by the present wall dividing it from Bridge Street being 3 chains 13 links on the South-East by the present wall dividing it from Court Street being a line 3 chains $4\frac{1}{2}$ links on the

North-East by the present wall dividing it from Crown Land being 3 chains 34 links and on the North-West by the present wall dividing it from the School Allotment being 3 chains 13 links to Bridge Street being the site of the Military Barracks and advertised as No. 5 in the Government Notice dated 2nd August 1843.

Fifthly.—All that allotment or parcel of land in Our said territory containing by admeasurement 1 acre and 13 perches be the same more or less situated in the Town of Parramatta Parish of St. John and County of Cumberland bounded on the North by the present wall and the outside wall of the Barrack building which divide it from George Street being a frontage of 5 chains 81 links on the East by the present wall being a line bearing South 4 degrees 30 minutes East 2 chains 58 links on the South by the present wall being first a line bearing West 4 degrees 41 minutes North 58½ links and then a line West 21 degrees 37 minutes North 5 chains 89 links being the site of the Military Barracks and advertised as No. 3 in the Government Notice dated 2nd August 1843 as described in the Deed of Grant but now more correctly described as follows that is to say :—All that piece or parcel of land containing by admeasurement 1 acre and 13 perches be the same more or less situate in the County of Cumberland Parish of St. John Town of Parramatta commencing at the North-Eastern corner of the wall enclosing the Military Barracks being a point bearing South 12 degrees 49 minutes East 2 chains 47 links from the North-Eastern corner of Queen's Wharf and bounded thence on the North by the said wall and the walls of the Barrack buildings being lines bearing North 84 degrees 5 minutes West 1 chain 3 links North 6 degrees 36 minutes East 28 links North 83 degrees 53 minutes West 57 links South 6 degrees 36 minutes West 28 links North 83 degrees 24 minutes West 70 links South 6 degrees 6 minutes West 5½ links and North 83 degrees 54 minutes West 3 chains 50 links thence on the West by the wall bearing South 6 degrees 5 minutes West 89 links thence on the South-West by the wall bearing South 68 degrees 10 minutes East 5 chains 90 links and South 84 degrees 12 minutes East 58½ links and thence on the East by the wall bearing North 4 degrees 12 minutes West 2 chains 58 links to the point of commencement as shown upon plan catalogued Ms. 142 Sy. in the Department of Lands.

Sixthly.—All that piece or parcel of land in Our said territory containing by admeasurement 7 acres 1 rood and 18 perches be the same more or less situated in the County of Cumberland Parish St. John Town of Parramatta bounded on the North by the present wall on Macquarie Street bearing East 5 degrees 10 minutes South 7 chains 68 links on the East by a line bearing South 9 degrees East 8 chains 71 links on the South by a line South 67 degrees 12 minutes West 6 chains 86½ links and on the West by a line bearing North 12 degrees 30 minutes West 12 chains 25 links to Macquarie Street aforesaid authorised as the site for the Military Barracks and advertised as No. 12 in the Government Notice dated 31st December 1845 excepting thereout all that piece or parcel of land containing 1 acre 2 roods 1 perch be the same more or less situate in the County of Cumberland Parish of St. John Town of Parramatta commencing on the South-Western side of Macquarie Street at the North-Western corner of an area of 7 acres 1 rood 18 perches granted to the Principal Officers of Her Majesty's Ordnance 30th January 1846 and bounded thence on the West by the Western boundary of the Grant Southerly to its South-Western corner thence on the South by part of the Southern boundary of the said Grant being a line bearing North 67 degrees 12 minutes East 2 chains 60 links to the North-Western corner of John Harris' Grant of 110 acres thence on the North-East by a line bearing about North 53 degrees 45 minutes West about 2 chains 43 links thence on the East by a line bearing North 12 degrees 30 minutes West about 7 chains 50 links to the South-Western corner of an area of 37½ perches resumed for Public School purposes 19th May 1882 thence again on the South by the Southern boundary of that land Easterly to the South-Eastern corner thereof thence again on the East by the Eastern boundary of that land Northerly to

Macquarie Street before-mentioned and thence on the North by Macquarie Street aforesaid bearing Westerly to the point of commencement as shown on Plan catalogued Ms. 1188 Sy. in the Department of lands.

Seventhly.—All that allotment or parcel of land in Our said territory containing by admeasurement 1 rood $31\frac{1}{2}$ perches be the same more or less situated in the Town of Parramatta Parish of St. John and County of Cumberland bounded by the present wall dividing it from Macquarie Street being 3 chains 70 links. On the East by a line along the East wall of the Surgeon's quarters being 1 chain 21 links. On the North by a line bearing West 4 degrees 45 minutes North 3 chains 70 links to a lane on the West side of the Lumber yard and on the West by the present wall dividing it from that lane being 1 chain 21 links to Macquarie Street being the site of the Military Hospital and advertised as No. 4 in the Government Notice dated 2nd August 1813.

Eighthly.—All that piece or parcel of land in Our said territory containing by admeasurement 7 acres 2 roods and 11 perches be the same more or less situated in the City of Sydney Parish of St Phillip and County of Cumberland bounded on part of the South-West by the North-Eastern boundary line of William Walker & Co.'s land being a line bearing South 50 degrees 20 minutes East 235 links commencing on the shore of Port Jackson at the North corner of Walker's land on part of the West by 3 links of the Eastern boundary of Walker's land bearing South 4 degrees West. On part of the South by a line bearing East two degrees South 45 links again on the West by a line bearing South 4 degrees West 340 links. Again on the South-West by a line bearing South 52 degrees 10 minutes East 94 links again on the West by lines bearing South 23 degrees 20 minutes. West 55 links South 13 degrees 30 minutes West 50 links South 9 degrees 20 minutes West 60 links. And South 6 degrees 15 minutes West 100 links to the North-west corner of R. D. Cunynghame's land on the South-East by the Northern boundary of Cunynghame's land being lines bearing North 52 degrees 15 minutes East 310 links and North 66 degrees East 25 links to the high water mark of Port Jackson. On the remainder of the South-East on the East North-East and North-West by the waters of Port Jackson to the North corner of Walker's land aforesaid. Excluding from the above described land the Public Road which is bounded on part of the South by a line bearing East 13 degrees South 47 links. Commencing on the shore of Port Jackson at a point bearing West 13 degrees 30 minutes North distant 47 links from an iron pillar marked Gipps Ward on the West by lines bearing South 2 degrees East 528 links and South 4 degrees West 3 links. On the South by a line bearing East 2 degrees South 45 links on the East by lines bearing North 4 degrees East 56 links and North 2 degrees West 664 links to the Shore of Port Jackson. On the North and North-West by the Waters of Port Jackson to the point bearing West 13 degrees 30 minutes North distant 47 links from the pillar aforesaid : being the land on which Dawe's Battery is erected and granted for the purpose of Defence for the Harbour of Port Jackson and advertised as No. 9 in the Government Notice dated 19th June 1844.

Ninthly.—All that piece or parcel of land in Our said territory containing by admeasurement 29 acres 2 roods and 17 perches be the same more or less situated in the County of Cumberland and Parish of Alexandria on the Old South Head Road near the City of Sydney. Commencing at the North-West corner of the boundary wall distant 2 chains 58 links and bearing South 10 degrees 45 minutes East from the Southernmost corner of the boundary line of Hill and West's properties and thence bounded on the West side by lines along the external sides of the said wall bearing South 9 degrees 15 minutes East 2 chains 83 links East 1 degree 15 minutes South 19 links South 47 minutes East 2 chains 2 links West 9 degrees 15 minutes South 19 links South 1 degree 15 minutes West 2 chains 83 links South 7 degrees 44 minutes East 2 chains $68\frac{1}{2}$ links East 2 degrees 40 minutes South 19 links South 2 degrees 35 minutes East 2 chains 7 links West 7 degrees 44 minutes South 19 links and South 2

degrees 40 minutes West 2 chains 67½ links to the South-West corner of the boundary wall on the south side by lines along the external sides of the said wall bearing East 2 degrees 20 minutes North 2 chains 77 links North 7 degrees 36 minutes East 19 links East 2 degrees 42 minutes South 2 chains 13 links South 2 degrees 20 minutes East 19 links East 7 degrees 36 minutes South 2 chains 70½ links East 26 minutes South 2 chains 71½ links North 10 degrees 32 minutes East 19 links East 5 degrees 35 minutes South 2 chains 12 links South 26 minutes West 19 links East 10 degrees 32 minutes South 2 chains 71½ links East 8 degrees 42 minutes North 2 chains 74½ links North 1 degree 15 minutes East 19 links East 4 degrees 4 minutes South 2 chains 14 links South 8 degrees 42 minutes East 19 links and East 1 degree 15 minutes South 2 chains 75½ links to the South-East corner of the boundary wall on the East side by lines along the external sides of the said wall bearing North 3 degrees 36 minutes East 5 chains East 3 degrees 36 minutes South 19 links North 3 degrees 11 minutes East 65½ links West 10 degrees 4 minutes North 19 links North 6 degrees 55 minutes East 3 chains 24 links East 3 degrees 11 minutes South 19 links and North 10 degrees 4 minutes East 1 chain 69½ links to the North-East corner of the boundary wall distant 2 chains 60 links from the South-West corner of Cooper Underwood and Forbes' Grant of 100 acres on the North side by lines along the external sides of the said wall and dividing the same from the Old South Head Road bearing West 6 degrees 58 minutes North 3 chains 39½ links South 16 degrees 40 minutes West 19 links West 11 degrees 46 minutes North 2 chains 19½ links North 6 degrees 58 minutes East 19 links West 16 degrees 40 minutes North 3 chains 2½ links West 6 degrees 54 minutes North 3 chains 4 links South 16 degrees 43 minutes West 19 links West 11 degrees 45 minutes North 2 chains 17 links North 6 degrees 54 minutes East 19 links West 16 degrees 43 minutes North 3 chains 3½ links West 6 degrees 38 minutes North 3 chains 3 links South 17 degrees 5 minutes West 19 links West 11 degrees 32 minutes North 2 chains 18 links North 6 degrees 38 minutes East 19 links and West 17 degrees 5 minutes North 3 chains 33½ links to the commencing corner: Being the site of the Victoria Barracks being also the land advertised as No. 40 in the Government Notice dated 28th June 1850 excepting thereout. All that piece or parcel of land containing 1 rood 4 perches taken from Greens Road situate at Paddington in the County of Cumberland Parish of Alexandria commencing at the South-Western corner of an area of 29 acres 2 roods 17 perches granted to the Principal Officers of Ordnance 31st July 1850 being the site of the Victoria Barracks and bounded thence generally on the West by part of the Western boundary of the said Grant being lines bearing North 2 degrees 40 minutes East 2 chains 67½ links North 82 degrees 16 minutes East 19 links North 2 degrees 35 minutes West 2 chains 7 links North 87 degrees 20 minutes West 19 links North 7 degrees 44 minutes West 2 chains 68½ links North 1 degree 15 minutes East 2 chains 83 links and North 80 degrees 45 minutes East 19 links thence on the East by a line bearing South 3 degrees 24 minutes East 10 chains 29 links to the Southern boundary of the aforesaid Grant: and thence on the South by part of the last-mentioned boundary bearing South 87 degrees 40 minutes West 2 chains 23 links to the point of commencement as shewn on Plan catalogued S. 175.858 Department of Lands.

Tenthly.—All that piece or parcel of land in Our said territory known as Pinchgut Island situated in the County of Cumberland and Parish of Alexandria bounded on all sides by the waters of Port Jackson being granted for the purpose of defence for the Harbour of Port Jackson and advertised as No. 7 in the Government Notice dated 19th October 1843.

Eleventhly.—All that piece or parcel of land in Our said territory being part of Goat Island situated in the County of Cumberland and Parish of Petersham bounded on the North South and West by waters of Port Jackson and on the East by the Cut dividing it from the Water Police Station being granted for magazines and ordnance stores and advertised as No. 8 in the Government Notice dated 19th October 1843.

The Second Schedule before referred to.

Firstly.—All that piece or parcel of land containing 1 acre 1 rood 30 perches be the same more or less situate in the County of Cumberland Parish of St. Phillip City of Sydney commencing at the intersection of the Southern side of Argyle Street with the Eastern side of Lower George Street and bounded thence on the North by Argyle Street Easterly to a former high water mark of Sydney Cove thence on the North-East by the said high water mark South-Easterly to the Eastern corner of an area resumed for wharfage and other public purposes under the Circular Quay Land Act of 1890 (54 Victoria No. 24) thence on the South by the Northern boundary of the said land Westerly to the original alignment of Lower George Street thence on part of the West and South by that alignment being lines bearing North 3 degrees East 3 chains 44 links and South 87 degrees West about 22 links to the present alignment of Lower George Street and thence again on the West by that Street Northerly to the point of commencement as shown on plan catalogued Ms. 1186 Sy. in the Department of Lands.

Also all that piece or parcel of land situate as aforesaid containing 1 rood be the same more or less commencing on the Eastern building line of Lower George Street at the North-Western corner of A. R. Huntley and J. Le G. Brereton's 5½ perches allotment 4 of Section 83 and bounded thence on the West by Lower George Street Northerly to its intersection with Bethel Street thence on the North-West by the latter Street North-Easterly to its intersection with the Northern boundary of the Reserve for Naval and Military purposes thence on the North by part of the Northern boundary of the said Reserve Easterly to a former high water mark of Sydney Cove thence on the East and North-East by that high water mark Southerly and South-Easterly to the North-Eastern corner of John Solomon's 6 perches allotment 7 of Section 83 and thence on the South-West by the North-Eastern boundaries of that allotment and of allotment 4 before-mentioned North-Westerly to the point of commencement as shown on plan catalogued Ms. 1186 Sy. in the Department of Lands.

Also all that piece or parcel of land containing 15 perches be the same more or less situate as aforesaid commencing at the North-Eastern corner of an area of land resumed for wharfage and other public purposes under the Circular Quay Land Act of 1890 (54 Victoria No. 24) and bounded thence on the West by the Eastern boundary of that land Southerly to the Southern boundary of the Reserve for Naval and Military purposes thence on the South by part of that boundary Easterly to a former high water mark of Sydney Cove and thence on the East and North by that high water mark Northerly and Westerly to the point of commencement as shown on plan catalogued Ms. 1186 Sy. in the Department of Lands.

Secondly.—All that piece or parcel of land containing 10 acres be the same more or less situate in the County of Cumberland Parish of St. Phillip City of Sydney commencing on the Eastern side of Kent Street at the South-Western corner of Allotment 11 of Section 95 John Terry Hughes' 20 perches and bounded thence on part of the West by Kent Street Southerly to Agar's Street thence on parts of the South-East South-West and West by that Street Easterly Northerly South-Easterly and Southerly to the North-Eastern corner of E. Flood's Special purchase of 6 perches thence again on the West by the Eastern boundaries of that land and of Allotments 16 and 17 of Section 66 Southerly to the Northern boundary of Allotment 10 thence again on the South by part of the Northern boundary of that allotment and by a Northern boundary of Allotment 12 Easterly to the Western boundary of Allotment 13 thence on the East by part of the Western boundary of that allotment and by the Western boundary of Allotment 14 Northerly to the North-West corner of the latter allotment; thence by a line Northerly to the intersection of the South-Western side of Essex Street with the Western side of Upper Fort Street and thence by the latter street Northerly to Watson Road thence on the North East by Watson Road North-Westerly to its intersection with Argyle Street and by the latter street Westerly to the North-Eastern corner

of an allotment of $6\frac{1}{2}$ perches occupied for Police purposes thence again on the West by the Eastern boundaries of that land and of Allotments 1 to 5 of Section 95 Southerly by part of the Southern boundary of Allotment 5 Westerly the Eastern boundary of Allotment 6 Southerly the Northern boundary of William Higstrim's Special purchase of 1 perch Easterly the Eastern boundaries of the said Special purchase and of Allotments 14 and 15 Southerly part of the Southern boundary of Allotment 15 Westerly the Eastern boundaries of Allotments 16 and 17 Southerly part of the Northern boundary of Allotment 18 Easterly the Eastern boundaries of Allotments 18 and 19 Southerly the Southern boundary of the last-mentioned allotment Westerly to Kent Street before mentioned thence by that street Southerly to the North-Western corner of Allotment 10 thence by the Northern boundary of that allotment Easterly the Eastern boundaries of Allotments 10 and 11 Southerly and by the Southern boundary of the latter allotment Westerly to the point of commencement as shown on plan catalogued Ms. 1187 Sy. in the Department of Lands.

Also all that piece or parcel of land containing 1 rood be the same more or less situate as aforesaid commencing at the intersection of the Western side of Upper Fort Street with the Southern side of Argyle Street and bounded thence on the North by the latter street Westerly to its intersection with Watson Road thence on the South-West South and South-East by that road South-Easterly Easterly and North-Easterly to the Western side of Upper Fort Street before-mentioned and thence on the East by the latter street Northerly to the point of commencement as shown on plan catalogued Ms. 1187 Sy. in the Department of Lands.

Thirdly.—All that piece or parcel of land situate in the County of Cumberland Parish of St. James City of Sydney at Bennelong Point area about 3 acres and 20 perches commencing on the high water mark of Sydney Cove at a point bearing approximately South $46\frac{1}{2}$ degrees West and distant about 4 chains 70 links from the centre of Fort Macquarie and bounded thence on the South-West by a line bearing about South 17 degrees East 4 chains 80 links thence on the South-East by a line bearing about North 42 degrees East 64 links thence again on the South-West by a line bearing about South 70 degrees East 70 links to the Waters of Farm Cove and thence on the East North and West by those waters and the Waters of Sydney Cove Northerly Westerly and Southerly to the point of commencement as shown on plan catalogued O 3.1208.

The Third Schedule before referred to.

All that piece or parcel of land known as Garden Island containing an area of 15 acres 1 rood be the same more or less situate in the Harbour of Port Jackson County of Cumberland and lying about 30 chains Easterly from Mrs. Macquaries Point as surveyed and shown on plan catalogued Ms. 1152 Sy. in the Department of Lands.

5. Queensland.

THE QUEENSLAND MILITARY BARRACKS ORDER, 1879.

At the Court of Windsor, the 2nd day of March, 1881.

PRESENT :

The Queen's Most Excellent Majesty in Council.

Whereas it hath been represented to Her Majesty by the Earl of Kimberley, one of Her Majesty's Principal Secretaries of State,

and by the Lords Commissioners of Her Majesty's Treasury that it is expedient by Order in Council, pursuant to the Colonial Fortifications Act, 1877,* to vest in the Governor of the Colony of Queensland the buildings and land herein-after specified being situate in the said Colony and held in trust for the defence thereof, and the care and disposal of the said buildings and land, together with all estate and interest therein :

And whereas the said representation was laid before both Houses of Parliament, and lay for not less than forty days on the tables of both Houses before it was submitted to Her Majesty :

Now, therefore, Her Majesty doth order by and with the advice of Her Privy Council, and in pursuance of the powers vested in Her by the Colonial Fortifications Act, 1877,* as follows :—

1. The buildings and land enumerated in the Schedule hereunder written, and the care and disposal thereof, and the freehold thereof, shall be and the same are hereby vested in the Governor of the Colony of Queensland in fee simple for the public purposes of the said Colony.
2. This Order may be cited as “The Queensland Military Barracks Order, 1879.”

C. I. Peel.

Schedule.

Military Barracks

Description.

5 Acres, and 36 Perches.

County of Stanley, Parish of North Brisbane.

Commencing on Petrie Terrace at the North corner of the Government Reserve and bounded thence on the North West by Petrie Terrace bearing North thirty eight degrees fifty four minutes East three chains and thirty three links on the West of the same terrace bearing North eleven degrees West two chains and fifty links on the North by a street at right angles to Petrie Terrace bearing north seventy nine degrees East three chains and thirty-five and a half links to a street one hundred and fifty links wide. On the East by that street Southerly twelve chains and eighty two links to Roma Street on the South by that street Westerly at an angle of eighty eight degrees thirty seven minutes with the last line one chain and forty six links and on the South West by a line bearing West thirty eight degrees fifty-four minutes North ten chains and seventy one links to the point of commencement.

* 40 & 41 Vict. c. 23.

6. Tasmania.**THE TASMANIA FORTIFICATIONS ORDER, 1879.**

At the Court at Windsor, the 18th day of March, 1880.

PRESENT :

The Queen's Most Excellent Majesty.
His Royal Highness Prince Leopold.

Lord Chancellor.
Lord President.

Lord Steward.
Earl of Beaconsfield.

Whereas it hath been represented to Her Majesty by the Right Honourable Sir Michael Edward Hicks Beach, Baronet, one of Her Majesty's Principal Secretaries of State, and by the Lords Commissioners of Her Majesty's Treasury that it is expedient by Order in Council pursuant to the Colonial Fortifications Act, 1877,* to vest in the Governor of the Colony of Tasmania the fortifications, works, buildings, and land hereinafter specified, being situate in the said colony, and held in trust for the defence thereof, and the care and disposal of the said fortifications, works, buildings, and land, together with all estate and interest therein :

And whereas the said representation was laid before both Houses of Parliament and lay for not less than forty days on the table of both Houses before it was submitted to Her Majesty :

Now, therefore, Her Majesty doth order by and with the advice of Her Privy Council, and in pursuance of the powers vested in Her by the Colonial Fortifications Act, 1877,* as follows :

1. The several fortifications, works, buildings, and land enumerated in the Schedule hereunder written, and the care and disposal thereof and the freehold thereof, shall be and the same are hereby vested in the Governor of the Colony of Tasmania in fee simple for the public purposes of the said colony.
2. This Order may be cited as "The Tasmania Fortifications Order, 1879."

C. L. Peel.

* 40 & 41 Vict. c. 23.

*Schedule.**Return of 12 lots included in a Deed of Surrender to the Queen.*

Name.	Area.	Situation.	Quit Rent.	Date of Grant.
Principal Officers of Her Majesty's Ordnance.	A. R. P. 0 3 6	Hobart Town Commissariat Store.	Pepper-corn.	27th Nov. 1843
Do. . . .	0 0 22	Hobart Town, Pay Chest, (Military).	Do.	Do.
Do. . . .	{ 21 1 11 } 0 1 22	Hobart Town, Barrack Site .	Do.	Do.
Do. . . .	0 3 10	„ Ordnance Stores.	Do.	Do.
Do. . . .	8 2 0	„ Battery, Ordnance, Semaphore, Magazine, &c.	Do.	10th June 1847
Do. . . .	0 1 10	Launceston, Commissariat Store	Do.	27th Nov. 1843
Do. . . .	0 3 17	„ Powder Magazine .	Do.	Do.
Do. . . .	5 1 9	„ Battery Site . .	Do.	Do.
Do. . . .	1 3 30½	„ Commissariat Store	Do.	Do.
Do. . . .	10 1 33	„ Battery Site . .	Do.	10th June 1847
Do. . . .	0 3 22	Richmond, Barrack Site . .	Do.	27th Nov. 1843
Do. . . .	0 0 18	Hobart Town, Telegraph Office .	Do.	Do.

7. Western Australia.**THE WESTERN AUSTRALIA MILITARY LANDS ORDER, 1879.**

At the Court at Windsor, the 15th day of July, 1881.

PRESENT :

The Queen's Most Excellent Majesty in Council.

Whereas it hath been represented to Her Majesty by the Earl of Kimberley, one of Her Majesty's Principal Secretaries of State, and by the Lords Commissioners of Her Majesty's Treasury that it is expedient by Order in Council pursuant to the Colonial Fortifications Act, 1877,* to vest in the Governor of the Colony of Western Australia the buildings and land hereinafter specified being situate in the said Colony and held in trust for the defence thereof, and the care and disposal of the said buildings and land together with all estate and interest therein :

And whereas the said representation was laid before both Houses of Parliament, and lay for not less than forty days on the table of both Houses before it was submitted to Her Majesty :

Now, therefore, Her Majesty doth order by and with the advice of Her Privy Council and in pursuance of the powers vested in Her by the Colonial Fortifications Act, 1877,* as follows :

* 40 & 41 Vict. c. 23.

1. The buildings and land enumerated in the Schedule hereunder written and the care and disposal thereof and the freehold thereof shall be and the same are hereby vested in the Governor of the Colony of Western Australia in fee simple for the public purposes of the said Colony.
2. This Order may be cited as "The Western Australia Military Lands Order, 1879."

C. L. Peel.

Schedule.

Town.	Area.	Granted in Fee Simple.
Perth. B 10	A. R. P. .. 1 36	Ordinance Board November 1857.
B 11	.. 1 12	Do. Do.
B 8	.. 1 19	Do. Do.
B 3	.. 2 14	Do. Do.
B 7	Do. January 1857
S 35	.. 1 0	Do. November 1857
T 2	.. 2 0	Do. Do.
Albany E 4	1 2 4	Do. Do.
York 8	.. 3 22	Secretary of State for War November 1857
Bunbury 297	1 0 32	Ordinance Board November 1857
Kojonup B	1 2 0	Secretary of State for War November 1857
Pinjarrah B	1 2 0	Do. August 1862

FRIENDLY SOCIETY.

REGULATIONS, DATED JANUARY 1, 1897, MADE BY THE TREASURY UNDER THE FRIENDLY SOCIETIES ACT, 1896, AND THE COLLECTING SOCIETIES AND INDUSTRIAL ASSURANCE COMPANIES ACT, 1896, AS AMENDED BY REGULATIONS DATED JUNE 15, 1897, AND JANUARY 1, AND JULY 1, 1903.*

1897, No. 6, as amended by No. 428, and 1903, Nos. 1, and 537

In pursuance of the powers vested in the Lords Commissioners of Her Majesty's Treasury, by the above-mentioned statutes, their Lordships have made and approved of the following Regulations in lieu of the Treasury Regulations, 1896,† which are hereby cancelled :—

I.—*The Registry Office.*

(1.) Documents requiring authentication by the central office shall be authenticated by its seal, which shall bear the Royal Arms with the words "Registry of Friendly Societies" around or above, and the words "Central Office" below. A document so authenticated shall be deemed to be a document signed by the registrar of friendly societies in England, the registrar of building societies in England, or the barrister appointed to certify the rules of savings banks or friendly societies, for the purposes of section 2 of the Friendly Societies Act, 1896 ‡ (in these regulations termed the Act). Friendly Societies Act, 1896, s. 2.

(2.) The Assistant Registrars for Scotland and Ireland respectively shall keep records of all fees received by them under the Act or these regulations, and shall pay such fees at least twice a year into the Bank of England, to the cash account of Her Majesty's Paymaster-General for the credit of Registrars of friendly societies. They shall at the same time send to the Chief Registrar a list of the fees so paid, and he shall cause the amount thereof to be paid into Her Majesty's Exchequer. s. 4.

II.—*Registry of Societies.*

(3.) Every application to register a society shall be in Form A. Ss. 8, 9.
Where the society is a specially authorised society, to which only

* The Regulations are here reprinted as amended : the amending Regulations are printed at length in Statutory Rules and Orders, 1897, p. 231; 1903, pp. 847, 851.

† Statutory Rules and Orders, 1896, No. 18.

‡ 59 & 60 Vict. c. 25.

certain specified provisions of the Act are to be extended, such specification shall be inserted in the acknowledgment of registry of the society or of any complete amendment of rules. Where the society combines with any specially authorised purpose any of the purposes specified in section 8 of the Act such society shall not in respect of any of its purposes be entitled to any privilege or exemption of the Act not contained in the provisions specified in the authority, but shall be subject in respect of every purpose, other than the specially authorised purpose, to all the duties and obligations of the Act whether contained in such specified provisions or not.

S. 11. (4.) The acknowledgment of registry of a specially authorised society shall be in Form A2.

S. 13. (5.) An amendment of the rules of a society may be either—
 (a.) A partial amendment, consisting of the addition of a new rule or rules, or part of a rule or rules, to the existing rules, or the substitution of a new rule or rules, or part of a rule or rules, for any of the existing rules, or any part thereof, or a rescission of any of the existing rules, or any part thereof, without any substitution, or more than one or all of these modes; or
 (b.) A complete amendment, consisting of the substitution of an entire set of rules for the existing set of rules, and bearing at the beginning the words "all previous rules rescinded."

(6.) Every application to register a partial amendment of rules shall be in Form B., accompanied by a statutory declaration * † in Form C., and by a printed copy of the existing rules marked to show where the alterations occur, and what they are, and by the following documents :—

- (a.) If the partial amendment consists of the addition or substitution of a new rule or rules, or part of a rule or rules, two copies of such new or amended rule or rules, or two copies of the whole of the rules with such new rule or rules printed in *italics* or in such other distinctive form as the Registrar may require, each copy being signed by three members and the secretary.
- (b.) If the partial amendment consists of the rescission of any of the rules without any substitution, two copies of the resolution for such rescission, each copy being signed by three members and the secretary.

S. 13. (7.) Every application to registrar a complete amendment of rules shall be made in Form D., accompanied by a statutory declaration * † in Form C., and by a printed copy of the existing rules.

* Where proceedings are taken for cancelling registry under section 73 of the Act, no application or declaration is required for any amendment of rules which may become necessary in connexion therewith.

† Or by an information; see additional Reg. (75) printed at p. 11 below.

and by two copies of the new rules, each copy being signed by three members and the secretary.

A Registrar may refuse to register a partial amendment of rules and require a complete amendment if in his opinion the condition of the registered rules renders it expedient, and may also require fair printed copies of rules or amendments of rules for registry.

(8.) An application to record in one part of the United Kingdom s. 14. rules, or amendments of rules, registered in another, shall be made by the secretary or other officer of the society in Form E. or F., and shall be accompanied by two authenticated copies of such rules or amendments.

(9.) Rules or amendments of rules shall be recorded by writing s. 14. at the foot or end of each copy the word "recorded," and by affixing to the same the seal of the central office, or the signature of the Assistant Registrar for Scotland or Ireland as the case may be.

III.—*Societies with Branches.*

(10.) Every notice of the establishment and application for s. 18. registry of a branch shall be in Form Ab., signed by the secretary and three members of the branch and countersigned by the secretary of the society.

(11.) An application to register an amendment of branch rules s. 19 shall be made in Form Bb. or in Form Db., as the case may require, and may be made by an officer of the society, in which case the statutory declaration in support thereof must be made by the secretary of the branch; or by the secretary of the branch, in which case the statutory declaration must be made by an officer of the society.

(12.) The statutory declaration shall be in Form Cb.* s. 19.

(13.) The certificate of secession or expulsion to be given by the s. 20. chief secretary or other principal officer of a society under s. 20 of the Act shall be in form G.

IV.—*Consequences of Registry.*

(14.) Notice of the situation of the registered office of a society s. 24. on first registry shall be deemed to be given by the rules. Every notice of a change in the situation of the registered office of a society or branch shall be sent to the Registrar within fourteen days after every such change in Forms H. and Hb. respectively.

(15.) The place of business of a society enrolled or certified s. 24. before the 1st January, 1876, as stated in the rules thereof, or in any notice of change duly sent to the Registrar, shall be deemed to be the registered office of the society until notice of change duly sent as herein provided is received by the Registrar. The registered

* But see additional Reg. (75) and consequent Form CbI.

place of business of a branch shall be deemed to be its registered office until notice of change be duly sent.

- S. 25. (16.) A copy of every resolution appointing trustees of a society or branch shall be sent to the Registrar within fourteen days after the date of the meeting whereat such resolution was passed, in Forms I. and Ib. respectively.

- S. 27. (17.) The annual returns of a society with branches shall include all branches of the society registered under the Act.

The valuation of a society with branches shall include all funds under the control of the central body of such society.

A registered branch shall, in respect of the valuation of any fund or funds administered by itself, or by a committee or officers appointed by itself, be subject to the same obligations, and such branch, its officers or committee, shall be liable to the same penalties as if it were a registered society.

- S. 28. (18.) No valuation of the assets and liabilities of a society or branch shall be deemed to be a valuation under the Act, where the person by whom the same is made (whether a public valuer or not) has audited the accounts of the society or branch for the year next preceding the date at which the society is valued.

- S. 28. (19.) Where a society or branch desires that its assets and liabilities shall be valued and reported on by an Actuary to be named by the Registrar, the return of benefits and contributions, funds and effects, debts and credits, in form prescribed by the Chief Registrar, shall be accompanied with a fee on the following scale, viz :—

	£
If the number of members does not exceed 150	10
If over 150, but not exceeding 250	15
" 250 " 350	20
" 350 " 500	25
" 500 " 700	40
" 700 " 1000	55

with an additional £25 for every 500 members, or portion thereof beyond 1000.

Where the number of members exceeds 2500, a special fee shall be fixed by the Chief Registrar for the valuation.

(20.) If the Registrar causes the assets and liabilities of a society or branch to be valued and reported on by the Actuary attached to the Central Office, the fee to be received for the same shall be paid into Her Majesty's Exchequer ; but if by any other Actuary, three-fourths only of the fee, as per Regulation 19, shall be paid to such Actuary, and the remaining one-fourth into Her Majesty's Exchequer.

V.—*Privileges of Registered Societies.*

- S. 34. (21.) Every application to the Chief Registrar to direct a transfer of stock shall follow as near as may be Form J., and shall be accompanied by a statutory declaration in Form K., or as near thereto

as the facts admit, and by the certificate (if any) of the stock in respect of which the application is made.

(22.) Before making the application the society or branch shall S. 34. submit to the Chief Registrar for examination a draft copy on foolscap paper, written on one side only, of the proposed application and declaration.

(23.) The Chief Registrar, before directing the transfer, may S. 34. require such further proof of any statement in the application as may seem to him to be necessary.

(24.) The Chief Registrar shall give his direction in Form L. S. 34. so framed in each case as to suit the particular circumstances.

VI.—*Payments on Death generally.*

(25.) Every nomination made by a member, and every revocation S. 56. and variation of a nomination, shall be recorded by the society or branch, and for that recording the rules of the society or branch may require the member to pay a sum not exceeding 3*d*.

VII.—*Disputes.*

(26.) Every reference of a dispute to the Chief or Assistant S. 68. Registrar shall be written on foolscap paper in duplicate in Form M.

(27.) Such Registrar, upon receipt of the reference, shall transmit S. 68. one copy of it to the Treasury for their consent.

(28.) Every notice of hearing by the Chief or Assistant Registrar, S. 68. and every requisition for the attendance of parties and witnesses, and the production of books and documents, shall be in Form N.

(29.) Where it is necessary to enforce the attendance of a par-S. 68. ticular witness, or the production of a particular document, notice shall be in Form O.

(30.) If an order for discovery is necessary it shall be in Form P. S. 68.

(31.) In Scotland, if a warrant for recovery of documents and S. 68. examination of havers is necessary, it shall be in Form Q. or R.

(32.) The determination and order of the Chief or Assistant S. 68. Registrar shall be in Form S., or as near thereto as the circumstances of the case may in his judgment allow.

VIII.—*Change of Name, Amalgamation, and Conversion of Societies.*

(33.) Every application for approval of change of name must S. 69. be made in duplicate in Form T., accompanied by a statutory declaration in Form U.* If approved, the word "approved"

* But see additional Reg. (75) and consequent Form UI.

shall be written at the foot or end of each such copy, and the same shall be signed by the Chief Registrar, or Assistant Registrar for Scotland or Ireland, as the case may require.

- S. 70. (34.) Every application to register a special resolution for the amalgamation of societies must be made by each of the societies in duplicate in Form V., and must be sent to the Central Office, accompanied by statutory declarations from officers of each society in Form U.* No acknowledgment of registry shall be given to either society until special resolutions in the like terms have been submitted for registry by the other or others.
- S. 70. (35.) Every application to register a special resolution for the transfer of the engagements of a society to another must be in duplicate in Form W., and must be sent to the Central Office accompanied by statutory declarations in Forms U. and X.*
- S. 70. (36.) Notice of an application that any of the consents and conditions prescribed for an amalgamation or transfer of engagements may be dispensed with, shall be advertised in the "Gazette," at least one month before application is made to the Chief Registrar in that behalf.
Such notice shall be in Form Y.
- S. 70. (37.) The application that any of the consents and conditions prescribed for an amalgamation or transfer of engagements may be dispensed with, shall be in Form Z., and shall be sent to the Chief Registrar in duplicate, with a copy of the "Gazette," in which the advertisement of the same is published.
- S. 70. (38.) If after hearing the trustees or committee of management and other persons whom he considers entitled to be heard, and to whom such notice shall be given as the Chief Registrar directs, the Chief Registrar thinks fit to entertain the application, he shall transmit a copy of the same to the Treasury for their consent thereto.
- S. 70. (39.) Where any consents or conditions prescribed for an amalgamation or transfer of engagements are dispensed with, the Forms may be modified by authority of the Chief Registrar to suit the circumstances of the case.
- S. 70. (40.) In registering a special resolution for amalgamation or transfer of engagements, where any prescribed consents or conditions have been dispensed with, the words "And confirmed by the Chief Registrar," shall be added after the word "Registered."
- S. 70. (41.) If on an application for dispensing with any prescribed consents or conditions to an amalgamation or transfer of engagements, more than one hearing or adjournment become necessary, the same fee shall be payable in respect of the same, as in the case of a dispute.
- S. 71. (42.) Every application to register a special resolution for converting a society into a company must be in triplicate in Form AA.,

* But see additional Reg. (75) and consequent Forms UI and XI.

Chief Registrar."

- S. 76. (52.) The chairman of the special meeting shall report to the Chief or Assistant Registrar as he may direct in Form AH.
- S. 77. (53.) Every request to cancel registry shall be made in Form AI., and shall name some newspaper in general circulation in the neighbourhood of the registered office of the society wherein it is desired that the cancelling of registry shall be published, and shall be accompanied by the sum requisite to defray the expense of such publication, and by the further sum of 5s. 6d. for publication of such cancelling in the "Gazette." *
- S. 77. (54.) Where application is made to cancel registry under the compulsory powers of the Registrar, the Registrar may require such application to be made in duplicate in such form, and to be supported by such statutory declaration as the Chief Registrar may direct, and shall transmit one copy of such application to the Treasury for their consent.
- S. 77. (55.) Notice before cancelling or suspension of registry shall be in Form AK.
- S. 77. (56.) The cancelling of registry shall be in Form AL.
- S. 77. (57.) The suspension or renewal of suspension of registry shall be in Form AM.
- S. 77. (58.) The advertisement of cancelling or suspension shall be in Form AN.
- S. 77. (59.) When the registry of any society registered since January 1, 1876, is cancelled with a view to its registry as a branch, notice must be given in Form Ab. as on the establishment of a new branch.
- S. 79. (60.) Every instrument of dissolution of a society shall be in Form AO., and every instrument of dissolution of a branch of a Friendly Society in Form AOb., and shall be signed in duplicate and accompanied by a statutory declaration in Form AP., and by a statement naming some newspaper in general circulation in the neighbourhood of the registered office of the society or branch wherein it is desired that notice of the dissolution shall be published, and by the sum requisite to defray the expenses of such publication, and by the further sum of 5s. 6d. for the like publication in the "Gazette."
- S. 79. (61.) The Registrar shall return one of the duplicates to the society, or in the case of a branch to the branch through the society with an acknowledgment of registry in Form AQ.
- S. 79. (62.) Alterations in the instrument of dissolution shall be signed, declared to, and registered in like manner.
- S. 79. (63.) The advertisement of dissolution by instrument shall be in Form AR.

* Where proceedings are taken for cancelling registry under section 73 of the Act, no request or advertisement is required.

(64.) Every award of the Chief Registrar for distribution of s. 79. funds shall be in form AS.

(65.) Every application for dissolution of a society by award s. 80. of the Chief Registrar shall be in Form AT., and shall name some newspaper in general circulation in the neighbourhood of the registered office of the society wherein it is desired that notice of the award shall be published, and with it shall be sent the sum requisite to defray the expenses of such publication, and the further sum of 5s. 6d. for the like publication in the "Gazette."

(66.) The notice of investigation shall be in Form AU., and s. 80. the award in Form AV.

(67.) The notice of dissolution by award shall be in Form AW. s. 80.

(68.) The notice of a proceeding to set aside a dissolution by s. 83. instrument shall be in Form AX., and the notice of an order setting aside a dissolution in Form AY.

Where such notice relates to a society which is registered and does business exclusively in Scotland or Ireland, it shall be sent to the Central Office through the Assistant Registrar for Scotland or Ireland, as the case may be. In all other cases where a society is registered, or does business in Scotland or Ireland, the Central Office shall forthwith apprise the Assistant Registrar for Scotland or Ireland, as the case may be, of the receipt of the same.

X.—Offences ; Penalties ; and Legal Proceedings.

(69.) Where a society or branch appoints officers to sue and s. 94. be sued other than its trustees, notice of every such appointment shall be given in the same manner as provided for trustees, with the necessary modifications to suit the facts.

XI.—Fees ; Forms ; Regulations.

(70.) The following fees shall be payable in advance for matters s. 96. to be transacted and the inspection of documents under the Act :—

	£	s.	d.
For the acknowledgment of registry of a specially authorised society	1	0	0
For the acknowledgment of registry of every amendment of the rules of the same	0	10	0
For the registry of a special resolution by any society (to include in the case of a change of name, the approval of the same)	0	10	0
For every direction to transfer stock	1	0	0
For every appointment of inspectors, or calling of a special meeting by a Registrar	1	0	0
For the determination of a Registrar on a dispute, or for his award for dissolution or distribution of funds	1	0	0

	£	s.	d.
And if more than one hearing or adjournment become necessary, then 1 <i>l.</i> more for every hearing after the first, and for every adjournment.			
For every order of a Registrar dispensing with consents and conditions for amalgamation or transfer of engagements	1	0	0
For every document (except as after mentioned) required to be signed by a Registrar, or to bear the seal of the Central Office, not chargeable with any other fee to the Registrar	0	2	6
For every inspection on the same day of documents (whether one or more) in the custody of the Registrar relating to one and the same society	0	1	0
For the registry of a valuation where the society has been suspended for default in making the same, a fee equal to the amount paid for advertising the suspension or suspensions of the society.			
For every copy or extract of any document in the custody of the Registrar, not exceeding 216 words, 1 <i>s.</i> , and if exceeding that number, 4 <i>d.</i> per folio of 72 words (in addition to the fee, if any, for the signature of a registrar, or seal of the Central Office).			
No fee is payable for the recording of rules or documents already registered in another country, or for the registry or recording of—			
The cancelling or suspension of registry of a society.			
Any notice of change of office, or of the appointment of trustees.			
Any notice of the establishment of a branch, or the rules of the same, or any amendment thereof.			
Any instrument of dissolution, or any amendment therein.			
Any document or copy of document supplied to a public department.			
Any document in respect of which a fee is already chargeable, under or by virtue of the Act and of any other statute.			
The Chief Registrar may also dispense with the fee for inspection of documents in cases where he may consider it for the public interest to do so.			
Where application is made for an investigation into the affairs of a society with a view to the dissolution thereof, upon the ground that the rates of contribution fixed in the rules of such society are insufficient to cover the benefits assured, the Chief Registrar may, if he think fit, at any time before making his award, require the payment of such fee as he may deem reasonable, not exceeding the scale fixed by Regulation 19, and such fee shall be paid in manner prescribed by Regulation 20.			

(70A.) * No fee shall be payable for the acknowledgment of registry of a specially authorised Society or of any amendment of the Rules of the same where the Society is a Society registered or to be registered under the Special Authority of 16th May, 1876.

* The new Regulation 70A was added by the Regulations of July 1903.

or of 23rd April, 1903, and where it has in its Rules provisions (a) and (b) of the Societies' Borrowing Powers Act, 1898.*

(71.) All forms annexed to Regulations may be modified to S. 99. suit any limited application of the provisions of the Act, or to suit any particular branches when necessary, or classes of societies or branches, or particular cases, by authority of the Chief Registrar.

(72.) The Chief Registrar may dispense with the obligation S. 99. to supply a duplicate of any document, where such obligation is imposed only by the Regulations.

(73.) Notwithstanding the rescinding of any regulation a form S. 99. issued under such regulation may be accepted by a Registrar.

XII.—*Collecting Societies and Industrial Assurance Companies Act, 1896.*†

(74.) In the application of the above-mentioned Act to Industrial Assurance Companies and unregistered collecting societies, the memorandum and articles of association and any laws or regulations shall be included in the term "rules"; the directors or other managing body shall be included in the term "committee."

[‡ *Informations in lieu of Statutory Declarations.*]

(75.)‡ In the cases of registry of amendments of rules, special resolutions and transfer of engagements from one society to another, where a statutory declaration is required by Treasury regulation only, the Chief or other Registrar may, for the purposes of the Friendly Societies Act, require and receive as an alternative to such declaration, information in the form provided for the purpose in the schedule to this regulation.

XIII.—*Shop Clubs Act, 1902.*§

(76.)|| Every application by a Society about to be registered for a Certificate under the Shop Clubs Act, 1902, shall be in the Form appended to this Regulation. Every application by a Society already registered shall be accompanied by its existing Rules or by a Complete Amendment of such Rules, and shall be in the same Form with the necessary modifications.

H. T. Anstruther,	} Two of the Lords Commissioners of Her Majesty's Treasury.
W. H. Fisher,	

1 January, 1897.

* 61 & 62 Vict. c. 15.

† 59 & 60 Vict. c. 26.

‡ This new Regulation 75 was added by the Regulations of June 1897; the heading in square brackets has been added to indicate the subject of the Regulation.

§ 2 Edw. 7, c. 21.

|| This new Regulation 76 was added by the Regulations of January 1, 1903.

FORM A.—Reg. 3.

Friendly Societies Act, 1896.

Application to Register a Society.

Name of society_____

To the Registrar of Friendly Societies.

Application to register a society under the above name is made by the eight persons whose names are subscribed at the foot hereof.

1. The society is a Friendly Society [Cattle Insurance Society, Benevolent Society, Working Men's Club, or Specially Authorised Society, *as the case may be*].

2. The matters required to be set forth in the Rules, are provided for in the manner shown by the subjoined schedule :—

Matters required to be set forth in the Rules.	Numbers of the Rules in which these Matters are provided for.
(a.) The name and place of office of the society and the sending to the Registrar notice of any change thereof within 14 days.	(a.)
(b.) The whole of the objects for which the society is to be established, the purposes for which the funds thereof shall be applicable, the terms of admission of members, the conditions under which any member may become entitled to any benefit assured thereby, and the fines and forfeitures to be imposed on any member, and the consequences of non-payment of any subscription or fine.	(b.)
(c.) The mode of holding meetings and right of voting, and the manner of making, altering, or rescinding rules, and the supplying every person on demand with a copy of the rules at a price not exceeding 1s.	(c.)
(d.) The appointment and removal of a committee of management, of a treasurer, and other officers, and of trustees, and the sending to the Registrar notice of every appointment of a new trustee within 14 days.	(d.)
(e.) Whether the society is one having branches ; and, if so, the composition and powers of the central body, and the conditions under which a branch may secede from the society.	(e.)
(f.) The investment of the funds, the keeping of the accounts, and the audit of the same once a year at least.	(f.)
(g.) Annual returns in the prescribed form to the Registrar of the receipts, funds, effects, and expenditure, and number of members of the society before the 1st June in every year.	(g.)
(h.) The inspection of the books of the society by every person having an interest in the funds of the society.	(h.)
(i.) The manner in which disputes shall be settled.	(i.)

Matters required to be set forth in the Rules.	Numbers of the Rules in which these Matters are provided for.
(j.) Whether the society divides its funds ; and, if so, provision for meeting all claims upon the society existing at the time of division before any such division takes place.	(j.)
(k.) The keeping separate accounts of all moneys received or paid on account of every particular fund or benefit assured for which a separate table of contributions payable shall have been adopted, and the keeping separate account of the expenses of management, and of all contributions on account thereof.	(k.)
(l.) The supplying gratuitously any member or person interested on demand with a copy of the last annual return or other authorised document.	(l.)
(m.) A valuation once at least in every five years, of the assets and liabilities of the society, including the estimated risks and contributions.	(m.)
(n.) Provision for the voluntary dissolution of the society by consent of not less than five-sixths in value of the members, testified by their signatures to the instrument of dissolution, and of every person for the time being entitled to any benefit from the funds of the society, unless his claim be first satisfied or adequately provided for.	(n.)
(o.) The right of one-fifth of the total number of members [or of one hundred members if the society have 1000 and not exceeding 10,000, or of 500 members if the society have more than 10,000] to apply for an investigation of the affairs or the calling of a special meeting of the society, or for winding up the same.	(o.)
(p.) The keeping a copy of the last annual balance sheet, with the auditors' report, if any, and of the last quinquennial valuation always hung up at the registered office.	(p.)
(q.) If the society pays money on death, the right of a member to nominate, and the production of certificates of death.	(q.)
(r.) If it be intended to assure certain annuities, tables of contributions for such assurance are certified by _____, Esquire, an actuary qualified to give such certificate under s. 16 of the Friendly Societies Act, 1896.	(r.)
(s.) If the society is a collecting society, the provisions of ss. 1 to 9 of the Collecting Societies and Industrial Assurance Companies Act, 1896.	(s.)

(k.) to (s.) are not required except for Friendly Societies and Cattle Insurance Societies.

With this application are sent—

- (a.) Two printed copies of the rules [together with the tables of contributions for annuities, certified as aforesaid] signed by each of the applicants.

- (b.) A list of the names of the secretary and of every trustee, or officer intended to be authorised to sue and be sued on behalf of the society.

Signed 1 _____ Member.
 2 _____ "
 3 _____ "
 4 _____ "
 5 _____ "
 6 _____ "
 7 _____ "
 8 _____ Secretary.

Registered Office,

 Date _____ day of _____ 18 .

To the Registrar of Friendly Societies,

28, Abingdon Street, London, S.W. [or Edinburgh
 or Dublin, as the case requires].

[If the society intends to avail itself of s. 47 of the Friendly Societies Act, 1896, as to the holding of land, s. 53, as to discharge of mortgages by receipt endorsed, s. 46, as to loans to members, s. 42, as to accumulating surplus of contributions for members' use, or, s. 54, as to security by officers, or to charge money for recording nominations, &c., under Regulation 25, rules for those purposes must be made, and it should be stated in what rules this has been done.]

Form A2.—Reg. 4.

Friendly Societies Act, 1896.

Acknowledgment of Registry of a specially authorised Society.

The _____ is registered as a
 specially authorised society under the Friendly Societies Act, 1896, this
 day of _____ 18 .

Provisions of the Act which are extended to the Society.	Provisions of the Act which are not extended to the Society.
Sections 1 to 11	Sections 12
13, 14	15, 16
17 to 27	28
29, 30	31
32	33
34	35
36 to 40	41 to 43
44	45, 46
47	48
49 to 55	56 to 67
68, 69	70 to 73
74 to 109	

[This is the specification most generally applicable to specially authorised societies. Where other provisions are specified in the special authority, it will be modified accordingly. For example, while the special authority allows of subscriptions being recoverable, s. 23 will not be extended and s. 31 will. Where the special authority does not allow of membership of minors, s. 36 will not extend. Where it allows of loans, ss. 45 and 46 will be transferred to the first column, and so forth.]

[A similar specification will be added to the form prescribed by the Act for a complete amendment of rules.]

FORM B.—Reg. 6.

Friendly Societies Act, 1896.

Application to Register a Partial Amendment of Rules.

Name of Society

Register No. . [If the Society is registered in Scotland or Ireland, add Scotland or Ireland, as the case may be.]

To the Register of Friendly Societies.

Application to register a partial amendment of the rules of the above-named society is made by the person whose name is subscribed at the foot hereof.

With this application are sent—

- (a.) A printed copy of the registered rules, marked to show where the alterations occur, and what they are ;
- (b.) Two printed [or written] copies of the amendment (a), each signed by the applicant and three members of the Society ;
- (c.) A statutory declaration in Form C. of an officer of the society, that the amendment now submitted for registry has been duly made by the society, and that to the best of his knowledge and belief the same is not contrary to the provisions of the Friendly Societies Act in that behalf.

(a) This word includes a resolution rescinding a rule and a new rule.

Signed

Secretary.

Registered Office,

Dated day of 18 .

To the Registrar of Friendly Societies, London [Edinburgh or Dublin].

FORM C.—Regs. 6, 7.

Friendly Societies Act, 1896.

Declaration in support of an Amendment of Rules.

Name of Society

Register No. . [If the Society is registered in Scotland or Ireland, add Scotland or Ireland, as the case may be.]

County of to wit.

I of , an officer of the above-named society, do solemnly and sincerely declare that the amendment of the rules of the said society, a copy of which is hereto annexed, has been duly made by the society, and that to the best of my knowledge and belief the same is not contrary to the provisions of the Friendly Societies Act.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Statutory Declarations Act, 1835.

Taken and received before me, one of Her

Majesty's justices of the peace for the

said county of

at

said county, this

of

18 .

in the

day

Signature of declarant.

FORM CI.* Alternative to FORM C.

Friendly Societies Act, 1896.

Information to obtain Registry of an Amendment of Rules required by the Registrar for the purposes of the Act.

Name of Society

Register No. .

County

I, , of , secretary of the above-named society, hereby inform the registrar, as required by him for the

* This Form was added by the Regulations of June 1897 ; see Reg. (75) printed at p. 11 above.

purposes of the Friendly Societies Act, that the amendment of the rules of the said society, herewith sent for registry, has been duly made in conformity with the rules of the society in that behalf, and that, to the best of my knowledge and belief, the same is not contrary to the provisions of the Act.

And I, _____, of _____, one of the trustees of the society, hereby inform the registrar, as required by him for the purposes of the Friendly Societies Act, that the above-mentioned _____ is the secretary of the society.

Signed

Signed

[Sections 84 (b) (c), 88, 89, of the Act are to be printed at foot.]

FORM D.—Reg. 6.

Friendly Societies Act, 1896.

Application to register a complete Amendment of Rules.

Name of Society _____

Register No. _____ [If the Society is registered in Scotland or Ireland, add Scotland or Ireland as the case may be.]

To the Registrar of Friendly Societies.

1. Application to register a complete amendment of the rules of the above-named society is made by the person whose name is subscribed at the foot hereof.

2. The matters required to be set forth in the Rules are provided for in the manner shown by the subjoined schedule :—

Matters required to be set forth in the Rules.	Numbers of the Rules in which these Matters are provided for.
(a.) The name and place of office of the society and the sending to the Registrar notice of any change thereof within 14 days.	(a.)
(b.) The whole of the objects for which the society is to be established, the purposes for which the funds thereof shall be applicable, the terms of admission of members, the conditions under which any member may become entitled to any benefit assured thereby, and the fines and forfeitures to be imposed on any member, and the consequences of non-payment of any subscription or fine.	(b.)
(c.) The mode of holding meetings and right of voting, and the manner of making, altering, or rescinding rules, and the supplying every person on demand with a copy of the rules at a price not exceeding 1s.	(c.)
(d.) The appointment and removal of a committee of management, of a treasurer, and other officers, and of trustees, and the sending to the Registrar notice of every appointment of a new trustee within 14 days.	(d.)
(e.) Whether the society is one having branches; and, if so, the composition and powers of the central body, and the conditions under which a branch may secede from the society.	(e.)

Matters required to be set forth in the Rules.	Numbers of the Rules in which these Matters are provided for.
(f.) The investment of the funds, the keeping of the accounts, and the audit of the same once a year at least.	(f.)
(g.) Annual returns in the prescribed form to the Registrar of the receipts, funds, effects, and expenditure, and number of members of the society before the 1st June in every year.	(g.)
(h.) The inspection of the books of the society by every person having an interest in the funds of the society.	(h.)
(i.) The manner in which disputes shall be settled.	(i.)
(j.) Whether the society divides its funds ; and, if so, provision for meeting all claims upon the society existing at the time of division before any such division takes place.	(j.)
(k.) The keeping separate accounts of all moneys received or paid on account of every particular fund or benefit assured for which a separate table of contributions payable shall have been adopted, and the keeping separate account of the expenses of management, and of all contributions on account thereof.	(k.)
(l.) The supplying gratuitously any member or person interested on demand with a copy of the last annual return or other authorised document.	(l.)
(m.) A valuation once at least in every five years of the assets and liabilities of the society, including the estimated risks and contributions.	(m.)
(n.) Provision for the voluntary dissolution of the society by the consent of not less than five-sixths in value of the members, testified by their signatures to the instrument of dissolution, and of every person for the time being entitled to any benefit from the funds of the society, unless his claim be first satisfied or adequately provided for.	(n.)
(o.) The right of one-fifth of the total number of members [or of 100 members if the society have 1000 and not exceeding 10,000, or of 500 members if the society have more than 10,000] to apply for an investigation of the affairs or the calling of a special meeting of the society, or for winding up the same.	(o.)
(p.) The keeping a copy of the last annual balance-sheet with the auditors' report, if any, and of the last quinquennial valuation, always hung up at the registered office.	(p.)
(q.) If the society pays money on death, the right of a member to nominate, and the production of certificates of death.	(q.)

Matters required to be set forth in the Rules.	Numbers of the Rules in which these Matters are provided for.
(r.) If it be intended to assure certain annuities, tables of contributions for such assurance certified by Esquire, an actuary qualified to give such certificate under section 16 of the Friendly Societies Act, 1896.	(r.)
(s.) If the society is a collecting society the provisions of sections 1.to 9 of the Collecting Societies and Industrial Assurance Companies Act, 1896.	(s.)

With this application are sent—

(*) If the society does not grant annuities these words should be struck out.

- (a.) A printed copy of the registered rules :
- (b.) Two printed copies of the new rules proposed by way of complete amendment [(*) together with the tables of contributions for annuities, certified as aforesaid], each signed by the applicant and three members of the society :
- (c.) A statutory declaration in Form C. of an officer of the society, that the amendment now submitted for registry has been duly made by the society, and that to the best of his knowledge and belief the same is not contrary to the provisions of the Friendly Societies Acts in that behalf.

Signed.

Secretary.

Registered Office,

Date day of 18 .

To the Registrar of Friendly Societies, London [Edinburgh or Dublin].

(f.) to (s.) are not required except for Friendly Societies and Cattle Insurance Societies.

[If the society intends to avail itself of s. 47 of the Friendly Societies Act, 1896, as to holding of land : s. 53, as to discharge of mortgages by receipt endorsed ; s. 46, as to loans to members ; s. 42, as to accumulating surplus of contributions for members' use ; or s. 54, as to security by officers, or to charge money for Recording nominations, &c., under Regulation 25, rules for those purposes must be made, and it should be stated in what rules this has been done.]

FORM E.—Reg. 8.

Friendly Societies Act, 1896.

Application to record Rules registered in another Country.

Name of society
Register No. . [Add England, Scotland, or Ireland, as the case may be.]

To the Registrar of Friendly Societies.

Application to record the rules of the above-named society is made by the secretary of the same.

1. The society carries [or intends to carry] on business in [Scotland, Ireland, or England, *as the case may be*] as well as in [England, Scotland, or Ireland] where the same is registered.

2. With this application are sent two printed copies of the rules of the society, such copies being under the seal of the Central Office [or under the signature of the Assistant Registrar for Scotland or Ireland].

Registered Office,

Signed

Date of

day of

18 .

Secretary.

FORM F.—Reg. 8.

Friendly Societies Act, 1896.

Application to record Amendment of Rules already recorded.

Name of Society

Register No.

case may be.]

Recorded in

may be] No.

[Add England, Scotland, or Ireland, *as the*

[Scotland, Ireland, or England, *as the case*

To the Registrar of Friendly Societies.

Application to record an amendment of the Rules of the above-named society is made by the secretary of the same.

1. The society carries on business in [Scotland, Ireland, or England, *as the case may be*] as well as in [England, Scotland, or Ireland] where the same is registered.

2. The rules of the society have been already recorded in [Scotland, Ireland, or England, *as the case may be*].

3. With this application are sent two printed copies of an amendment of such rules lately registered, such copies being under the seal of the Central Office [or under the signature of the Assistant Registrar for Scotland or Ireland].

Signed

Secretary.

Registered Office,

Date

day of

18 .

FORM Ab.—Reg. 10.

Friendly Societies Act, 1896.

Notice of Establishment of Branch and Application for Registry.

Name of society

Register No.

To the Registrar of Friendly Societies.

1. A branch of the above society has been established at in the county of , and is to be called No.

2. Application to register that branch is made by the five persons whose names are subscribed at the foot hereof.

3. The matters required to be set forth in branch Rules are provided for in the manner shown by the subjoined schedule.

Matters required to be set forth in the Rules.	Numbers of the Rules in which these Matters are provided for.
(a.) The name and place of office of the branch, and the sending to the Registrar through the society notice of any change thereof within three weeks.	(a.)
(b.) The whole of the objects for which the branch is to be established, the purposes for which the funds thereof shall be applicable, the terms of admission of members, the conditions under which any member may become entitled to any benefit assured thereby, and the fines and forfeitures to be imposed on any member and the consequences of non-payment of any subscription or fine.	(b.)
(c.) The mode of holding meetings and the right of voting, and the manner of making, altering, or rescinding rules, and the supplying any person on demand with a copy of the rules at a price not exceeding 1s.	(c.)
(d.) The appointment and removal of a committee of management (by the name of _____), of a treasurer, and other officers, and of trustees, and the sending to the Registrar through the society notice of every appointment of a new trustee within three weeks.	(d.)
(e.) The contribution to a fund under the control of the central body, the control of the central body over the branch, and the conditions under which the branch may secede from the society.	(e.)
(f.) The investment of the funds, the keeping of the accounts, and the audit of the same once a year at least.	(f.)
(g.) Annual returns in the prescribed form to the Registrar through the society of the receipts, funds, effects, and expenditure, and number of members of the branch.	(g.)
(h.) The inspection of the books of the branch by every person having an interest in the funds of the branch (except as in the said Act is mentioned).	(h.)
(i.) The manner in which disputes shall be settled.	(i.)
(j.) If the society allows of the division of branch funds provision for meeting all claims upon the branch existing at the time of division before any such division takes place.	(j.)
(k.) The keeping separate accounts of all moneys received or paid on account of every particular fund or benefit assured for which a separate table of contributions payable shall have been adopted, and the keeping separate accounts of the expenses of management and of all contributions on account thereof.	(k.)

Matters required to be set forth in the Rules.	Numbers of the Rules in which these Matters are provided for.
(l.) The supplying gratuitously every member or person interested on demand with a copy of the last annual return or other authorised document.	(l.)
(m.) A valuation once at least in every five years of the assets and liabilities of the branch, including the estimated risks and contributions.	(m.)
(n.) Provision for the voluntary dissolution of the branch by consent of the central body of the society and of not less than five-sixths in value of the members of the branch and of every person for the time being entitled to any benefit from the funds of the branch, unless his claim be first satisfied or adequately provided for.	(n.)
(o.) The right of one-fifth of the total number of members [or of one hundred members if the branch have 1000 and not exceeding 10,000, or of 500 members if the branch have more than 10,000] (but with the consent of the central body of the society), to apply to the Chief Registrar for an investigation of the affairs or the calling of a special meeting of the branch, or for winding up the same.	(o.)
(p.) The keeping a copy of the last annual balance sheet, with the auditors' report, if any, and of the last quinquennial valuation, always hung up at the registered office.	(p.)
(q.) If it be intended to assure certain annuities, tables of contributions for such assurance, certified by _____, Esquire, an actuary qualified to give such certificate under s. 16 of the Friendly Societies Act, 1896.	(q.)
(r.) If the society is a collecting society the provisions of ss. 1 to 9 of the Collecting Societies Act, 1896.	(r.)

With this application are sent—

Two printed copies of the Rules [together with the tables of contributions for annuities, certified as aforesaid], each signed by each of the applicants ;

A list of the trustees of the branch,

Signed 1. _____	—Member
2. _____	”
3. _____	”
4. _____	Secretary of Branch.
5. _____	Secretary of Society.

Registered Office

Date _____ day of _____ 18 .

[If the branch intends to avail itself of s. 44 of the Friendly Societies Act, 1896, as to investment with other branches ; s. 47, as to the holding of land ;

s. 53, as to discharge of mortgages by receipt endorsed ; s. 46, as to loans to members ; s. 49, as to accumulating surplus of contributions for members' use ; or s. 54, as to security by officers ; or to charge money for nominations, &c., under Regulation 25, it should be stated in what rules this has been done.]

To the Registrar of Friendly Societies,
London [Edinburgh or Dublin].

FORM Bb.—Reg. 11.

Friendly Societies Act, 1896.

Application to Register a Partial Amendment of Branch Rules.

Name of society.

Register No.

Name and number (if any) of branch.

To the Registrar of Friendly Societies.

Application to register a partial amendment of the rules of the above-named branch is made by the person (*) whose name is subscribed at the foot hereof.

(a) This must be the Secretary of the Branch, or an officer of the Society.

With this application are sent (a) a printed copy of the registered rules, marked to show where the alterations occur, and what they are ; (b) two printed [or written] copies of the amendment, each signed by the secretary and three members of the branch, and by the secretary or other authorised officer of the society ; (c) a statutory declaration in Form Cb., that the amendment now submitted for registry has been duly made, and that to the best of his knowledge and belief the same is not contrary to the provisions of the Friendly Societies Act in that behalf.

Signed

Officer of the society (or Secretary of the Branch).

Registered Office,

Date day of 18 .

[If the application is made by any officer of the society the declaration must be that of the secretary of the branch. If the application is made by the secretary of the branch, the declaration must be that of an authorised officer of the society.]

To the Registrar of Friendly Societies, London [Edinburgh or Dublin].

FORM Db.—Reg. 11.

Friendly Societies Act, 1896.

Application to Register a complete Amendment of Branch Rules.

Name of society.

Register No.

Name and number (if any) of branch

To the Registrar of Friendly Societies.

1. Application to register a complete amendment of the rules of the above-named branch is made by the person whose name is subscribed at the foot hereof.

2. The matters required to be set forth in Branch Rules are provided for in the manner shown by the subjoined schedule :—

Matters required to be set forth in the Rules.	Numbers of the Rules in which these Matters are provided for.
(a.) The name and place of office of the branch, and the sending to the Registrar through the society notice of any change thereof within three weeks.	(a.)
(b.) The whole of the objects for which the branch is to be established, the purposes for which the funds thereof shall be applicable, the terms of admission of members, the conditions under which any member may become entitled to any benefit assured thereby, and the fines and forfeitures to be imposed on any member, and the consequences of non-payment of any subscription or fine.	(b.)
(c.) The mode of holding meetings and the right of voting, and the manner of making, altering, or rescinding rules, and the supplying any person on demand with a copy of the rules at a price not exceeding 1s.	(c.)
(d.) The appointment and removal of a committee of management (by the name of), of a treasurer, and other officers, and of trustees, and the sending to the Registrar through the society notice of every appointment of a new trustee within three weeks.	(d.)
(e.) The contribution to a fund under the control of the central body, the control of the central body over the branch, and the conditions under which the branch may secede from the society.	(e.)
(f.) The investment of the funds, the keeping of the accounts, and the audit of the same once a year at least.	(f.)
(g.) Annual returns in the prescribed form to the Registrar, through the society, of the receipts, funds, effects, and expenditure, and number of members of the branch.	(g.)
(h.) The inspection of the books of the branch by every person having an interest in the funds of the branch (except as in the said Act is mentioned).	(h.)
(i.) The manner in which disputes shall be settled.	(i.)
(j.) If the society allows of the division of branch funds, provision for meeting all claims upon the branch existing at the time of division before any such division takes place.	(j.)
(k.) The keeping separate accounts of all moneys received or paid on account of every particular fund or benefit assured for which a separate table of contributions payable shall have been adopted, and the keeping separate accounts of the expenses of management and of all contributions on account thereof.	(k.)

Matters required to be set forth in the Rules.	Numbers of the Rules in which these Matters are provided for.
(l.) The supplying gratuitously every member or person interested on demand with a copy of the last annual return or other authorised document.	(l.)
(m.) A valuation once at least in every five years of the assets and liabilities of the branch, including the estimated risks and contributions.	(m.)
(n.) Provision for the voluntary dissolution of the branch by consent of the central body of the society and of not less than five-sixths in value of the members of the branch, and of every person for the time being entitled to any benefit from the funds of the branch, unless his claim be first satisfied or adequately provided for.	(n.)
(o.) The right of one-fifth of the total number of members [<i>or</i> of one hundred members if the branch have 1000 and not exceeding 10,000, <i>or</i> of 500 members if the branch have more than 10,000] (but with the consent of the central body of the society), to apply to the Chief Registrar for an investigation of the affairs, or the calling of a special meeting of the branch, or for winding up the same.	(o.)
(p.) The keeping a copy of the last annual balance sheet, with the auditors' report (if any) and of the last quinquennial valuation, always hung up at the registered office.	(p.)
(q.) If it be intended to assure certain annuities, table of contributions for such assurance certified by _____, Esquire, an actuary qualified to give such certificate under section 16 of the Friendly Societies Act, 1896.	(q.)
(r.) If the society is a collecting society, the provisions of ss. 1 to 9 of the Collecting Societies Act, 1896.	(r.)

With this application are sent—

- (a.) A printed copy of the registered rules.
- (b.) Two printed copies of the new rules proposed by way of complete amendment [(a) together with the tables of contributions for annuities, certified as aforesaid], each signed by the secretary and three members of the branch, and by the secretary or other authorised officer, of the Society.
- (c.) A statutory declaration that the amendment now submitted for registry has been duly made; and that, to the best of his knowledge and belief, the same is not contrary to the provisions of the Friendly Societies Acts in that behalf.

Signed

{ Secretary of the Branch, or
{ Officer of the Society.

Registered Office,

Date

day of

18 .

To the Registrar of Friendly Societies, London [Edinburgh or Dublin].

(a) If the branch does not grant annuities, these words should be struck out.

[If the branch intends to avail itself of s. 44 of the Friendly Societies Act, 1896, as to investments with other branches ; s. 47, as to the holding of land ; s. 53, as to discharge of mortgages by receipt endorsed ; s. 46, as to loans to members ; s. 49, as to accumulating surplus of contributions for members' use ; or s. 54, as to security by officers, or to charge money for nominations, &c., under Regulation 25, it should be stated in what rules this has been done.]

FORM Cb.—Reg. 12.

Friendly Societies Act, 1896.

Declaration in support of Amendment of Branch Rules.

Name of society
 Register No. . [If the society is registered in Scotland or Ireland, add Scotland or Ireland, as the case may be.]
 Name [and No.] of branch. . [If in Scotland or Ireland, add as above.]

County of _____ to wit .
 I, _____ of _____, secretary of the above-named branch [or an officer of the above-named society], do solemnly and sincerely declare that the amendment of the rules of the said branch, a copy of which is hereto annexed, has been duly made in conformity with the rules of the society and branch in that behalf, and that to the best of my knowledge and belief the same is not contrary to the provisions of the Act above referred to.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Statutory Declarations Act, 1835.

Taken and received before me, one of Her Majesty's justices of the peace for the said county of _____ at _____ day of _____ 18____ .
 Signature of declarant.

FORM CbI.* Alternative to FORM Cb.

Friendly Societies Act, 1896.

Information to obtain Registry of an Amendment of Branch Rules required by the Registrar for the purposes of the Act.

Name of Order
 Name and No. of Branch _____ County _____
 I, _____ of _____, secretary of the above-mentioned branch, hereby inform the Registrar, as required by him for the purposes of the Friendly Societies Act, that the amendment of the rules of the said branch herewith sent for registry has been duly made in conformity with the rules of the branch and of the order in that behalf, and that, to the best of my knowledge and belief, the same is not contrary to the provisions of the Act.

And I, _____ of _____, the [district] secretary of the above-mentioned order, hereby inform the Registrar, as required by him for the purposes of the Friendly Societies Act, that the above mentioned is the secretary of the said branch.

Signed _____

Signed _____

[Sections of the Act to be printed as in Form CI.]

* Form CbI was added by the Regulations of June 1897 ; see Reg. (75) printed at p. 11 above.

FRIENDLY SOCIETY.

FORM G.—Reg. 13.

Friendly Societies Act, 1896.

Certificate of Officer of Society as to Secession or Expulsion of Branch.

Name of society

Register No.

[add Scotland or Ireland where necessary.]

Name of branch

Registered office of branch

I hereby certify that the above-mentioned branch has wholly seceded
[or has been expelled] from the above-named society.

Chief Secretary or [if other principal officer
state what officer] of the society.

Dated this

day of

18 .

FORM H.—Reg. 14.

Friendly Societies Act, 1896.

Notice of change of Registered Office of Society.

Name of society

Register No.

[If the society is registered in Scotland
or Ireland, add Scotland or Ireland, as the case may be.]

Notice is hereby given that the registered office of the above-mentioned
society is removed from _____ in the county of
, and is now situate at _____, in the county of

Dated this

day of

18 .

} Trustees.

Secretary.

To the Registrar.

(a) This part to
be detached by
the Registrar
when the notice
is registered,
and returned to
the society

(a) Received this _____
of the registered office of the _____
to _____

day of

in the county of

notice of removal
Society, Register No.

[Seal of Central Office, or signature
of a Registrar.]

FORM Hb.—Reg. 14.

Friendly Societies Act, 1896.

Notice of change of Registered Office of Branch.

Name of Society

Register No.

[If the society is registered in Scotland or
Ireland, add Scotland or Ireland, as the case may be.]

Name and [No.] of branch
or Ireland, add as above.]

[If in Scotland

Notice is hereby given that the registered office of the above-mentioned
branch is removed from _____ in the county of
to _____ in the county of

Dated this

day of

18 .

An officer of the society.

To the Registrar.

Secretary of branch.

(b) This part to be detached by the Registrar when the notice is registered, and returned to the society.

Friendly Societies Act, 1896.

(b) This part to be detached by the Registrar when the notice is registered, and returned to the society.

State full names, addresses, and occupations. A secretary or treasurer cannot be a trustee.

trustee (or trustees) of the above-mentioned branch in the place of deceased [or resigned or removed.]

____ Secretary of the branch.

____ {An officer of the society
[order].

(c) The new trustees (or officers to sue and be sued) to sign here.

____ { (c) Trustees [or officers to
sue and be sued] of branch.

(d) This part to be detached by the Registrar when the notice is registered, and returned to the society.

(d) Received this _____ day of _____ 18 _____, notice of the appointment of _____ as trustees of the _____ Branch of the Society.

____ {Seal of the Central Office,
or signature of a Registrar.

FORM J.—Reg. 21.

Friendly Societies Act, 1896.

Application for Direction to Transfer Stock.

(To be accompanied by Form K.)

Name of society _____

Register No. _____ [If the society is registered in Scotland or Ireland, add Scotland or Ireland, as the case may be.]

Application for a direction to transfer stock is made by the four persons whose names are subscribed at the foot thereof, being the secretary and three members of the above-mentioned society.

1. The society at a meeting held on the _____ day of _____ by a resolution of a majority of the members present, and entitled to vote thereat, appointed _____, of _____ in the county of _____ [here name and describe all the trustees then appointed] to be trustees.

2. A copy of such resolution, duly signed, was sent to the Registrar.

3. On the _____ day of _____ the sum of _____ was invested in the purchase of _____ stock transferable at the Bank of England [or Ireland] in the names of the said trustees, and the same is still standing in their names, as follows:—[state exactly in what names the stock stands.]

[This clause will not be necessary where the application is in consequence of the mere removal of a trustee.]

4. The said _____ is absent from England [or Ireland] [or became bankrupt, on the _____ day of _____, or filed a petition (or executed a deed) for liquidation of his affairs by assignment or arrangement or for composition with his creditors, on the _____ day of _____, or has become a lunatic, or died on the _____ day of _____, or has not been heard of for _____ years, and it is not known whether he is living or dead].

5. On the _____ day of _____ the society, by a resolution of the majority of the members present and entitled to vote at a meeting thereof, removed the said _____ from his office of trustee, and appointed _____ [give full name and description] in his place; and a copy of such resolution, duly signed, was sent to the Registrar.

6. Since such removal application has been made in writing to the said [removed trustee] to join in the transfer of the said stock into the names of the said [here give the names of the other trustees, and of the new trustee appointed in the place of the one removed] as trustees for the said society, but he has refused to comply [or has not complied] with such application. [This paragraph may be omitted, or varied, as the facts require.]

7. This application to the Chief Registrar is made pursuant to s. 34 of the Friendly Societies Act, 1896, that he may direct the said Stock to be transferred into the names of the said _____ as trustees for the society by _____. *[This blank should be filled by the names of the surviving or continuing trustees (if any), and if they be willing and able to make the transfer; but if there be no such trustee, or if any such trustee refuse or be unable to make the transfer, then by the words the Accountant-General, or Deputy or Assistant Accountant-General of the said Bank; and a full statement of the facts and of the grounds of such refusal or inability should be made.]*

8. With this application is sent the fee of 1*l.* prescribed by the Treasury Regulations.

Secretary.
Member.
Member.
Member.

Registered Office

Date _____ day of _____ 18 ____
To the Chief Registrar.

FORM K.—Reg. 21.

Friendly Societies Act, 1896.

Declaration verifying Statements in an Application for direction to transfer Stock.

Name of society _____

Register No. _____ *[If the society is registered in Scotland or Ireland, add Scotland or Ireland, as the case may be.]*
County of _____ to wit.

I _____ of _____ in the county of _____ do solemnly and sincerely declare that I am the secretary of the above-mentioned society.

That _____ and _____ whose names are subscribed at the foot of the application hereto annexed, are members of the said society.

That on the _____ day of _____ 18 ____ and therein mentioned, were appointed trustees of the said society.

That on the _____ day of _____ 18 __, the sum of _____ was invested in the purchase of _____ stock, transferable at the Bank of England [or Ireland] in the names of the said Trustees, and the declarant believes that it is still standing in their names, as follows (*state as in Form J.*):

That the said _____ is absent from England [*or as the case may be*].

That on the _____ day of _____ 18 __, the said _____ was removed from his office of trustee, and _____ was appointed in his place.

That since such removal, application has been made in writing to the said _____ to join in the transfer of the said stock into the names of the said _____ as trustees for the said society, but he has refused

to comply [or has not complied] with such application. [*This paragraph may be omitted or varied as the facts require.*]

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Statutory Declarations Act, 1835.

Taken and received before me, one of Her
Majesty's Justices of the Peace for the
said county of at day
in the said county, this day
of 18 .

} Signature of declarant.

FORM L.—Reg. 24.

Friendly Societies Act, 1896.

Direction by the Chief Registrar to transfer Stock.

Whereas it has been made to appear to me that stock,
transferable at the Bank of England [or Ireland] is now standing in the
names of and , as trustees of
a society registered under the Friendly Societies Act.

And that the said is absent from England [or as the
case may be].

And that has been appointed trustee of the said society
in place of the said

The paragraphs
marked (a) or
(b) will be used
as the case
requires.

(a.) * I, as Chief Registrar of Friendly Societies, hereby direct, pursuant
to section 34 of the Friendly Societies Act, 1896, that the said sum of
so standing in the books of the Governor and Company
of the Bank of England [or Ireland] in the names of the said
be transferred in the said books by the said into the names
of the said or

(b.) And that there is no surviving or continuing trustee of the said
society, or that the surviving and continuing trustees refuse or are unable
to transfer the said stock in pursuance of my direction.

I, as Chief Registrar of Friendly Societies, hereby direct, pursuant to
section 34 of the Friendly Societies Act, 1896, that the said sum of
so standing in the books of the Governor and Company of the Bank of
England [or Ireland] be transferred in the said books by the Accountant-
General, or Deputy, or Assistant Accountant-General of the said bank,
into the names of the said

Signature
Address
Date day of 18 .

FORM M.—Reg. 26.

Friendly Societies Act, 1896.

Reference of a dispute.

(To be signed in duplicate.)

Dispute between and [an officer of]
the Society.

Register No. . [*If the society is registered in Scotland or Ireland,
add Scotland or Ireland, as the case may be.*]

The above-named parties, by consent, refer the dispute between them to the Chief Registrar (or to the Assistant Registrar for Ireland, or for Scotland, as the case may be).

Signed { _____ (Claimant).
 _____ (Officer or Trustees.)

The said _____ states as follows :—

1. That he is a member (or has for not more than six months ceased to be a member or claims through a member, or through a person who has for not more than six months ceased to be a member or under the rules) of the said society.

2. That he claims to be entitled as follows (*give particulars of the claim*).

3. That the claim is proposed to be supported by the evidence of the following witnesses, and by the production of the following books and documents (*give lists*).

Signature _____

Address _____

Date _____ 18 .

The said _____ as an officer (or as trustees) of the said society states (or state) as follows :—

That he [or the society] disputes the claim of the said _____ on the following grounds (*state grounds of dispute*).

4. That his case [or the case of the society] is proposed to be supported by the evidence of the following witnesses, and by the production of the following books and documents (*give list*).

Signature of the officer or)
 signatures of trustees. }

Registered office _____

Date _____ day of _____ 18 .

With the reference is to be sent the fee of 1*l.* prescribed by the Treasury Regulations.

FORM N.—Reg. 28.

Friendly Societies Act, 1896.

Notice and Requisition.

Dispute between _____ and [_____
 an officer of] the _____ Society.

Register No. _____ [*add Scotland or Ireland where required*].

To _____

Take notice that I shall proceed by myself [or by _____ Esq., Assistant Registrar] to hear and determine the matter in dispute, which has been referred to me pursuant to the said Act, on the _____ day of _____ next, at _____ o'clock, at _____

And that I shall require the attendance there of all parties concerned, and of the witnesses named, and the production of the books and documents specified in the statement made by you in the reference of the dispute.

Signature _____

Chief Registrar or Assistant Registrar
 for Scotland or Ireland,

Date _____ day of _____ 18 .

FORM O.—Reg. 29.

Friendly Societies Act, 1896.

Special Requisition to Witness.

Dispute between _____ and [_____ an
 officer of] the _____ Society.
 Register No. _____ [add Scotland or Ireland where required].

To
 Pursuant to section 68 of the Friendly Societies Act, 1896, you are re
 quired to attend at _____ on _____ the
 day of _____ next at _____ o'clock, to give evidence
 relating to the matter in question, and to produce the following books and
 documents [state them].

Signed

Chief (or Assistant) Registrar.

Date _____ day of _____ 18 .

N.B.—By the said Act it is enacted that “ the Chief or other Registrar
 “ to whom any dispute is referred may administer oaths, and may require
 “ the attendance of all parties concerned, and of witnesses, and the pro
 “ duction of all books and documents relating to the matter in question ;
 “ and any person refusing to attend, or produce any documents, or to give
 “ evidence before such Chief or other Registrar, shall be guilty of an offence
 “ under this Act.”

The penalty for such offence is not less than one pound nor more than
 five pounds, and a new offence is committed in every week during which
 the default continues.

FORM P.—Reg. 30.

Friendly Societies Act, 1896.

Order for Discovery.

In the matter of a dispute between _____ and
 [_____ an officer of] the _____ Society.
 Register No. _____ referred to me pursuant to the Friendly Societies
 Act, 1896.

I, _____, Esquire, Chief [or Assistant] Registrar, order
 and direct as follows :—

1. That within 14 days from the service of this order _____ do
 deposit at my office [state where] for inspection by the parties the following
 documents [state the documents.]

2. That on the _____ day of _____ next at
 _____ o'clock [(a) an officer of the society] do appear
 before me at my office above-named and make discovery upon oath of all
 things within his knowledge (a) as such officer relative to the following
 matters [state the matters as to which discovery is granted].

(a) These words
 will be omitted
 if the discovery
 is to be made by
 the other party
 to the dispute.

Given under my hand this _____ day of _____ 18 .

Signature

Chief [or Assistant] Registrar.

N.B.—By the Friendly Societies Act, 1896, it is enacted that the Chief
 or other Registrar to whom any dispute is referred may grant to either

party such discovery as to documents and otherwise, or such inspection of documents, as might be granted by any court of law or equity, such discovery to be made on behalf of the society by such officer of the same as such registrar may determine.

FORM Q.—Reg. 31.

Friendly Societies Act, 1896.

Warrant for Recovery of Documents in Scotland.

In the matter of a dispute between _____ and
 [an officer of] the _____ Society.
 Register No. _____ (Scotland).

I, _____, Assistant Registrar for Scotland, order and direct as follows :—

That within 14 days from the service of this order _____ do deposit at my office [state where] for inspection by the parties the following documents [state the documents].

Given under my hand this _____ day of _____ 18 .

Signature

Assistant Registrar for Scotland.

N.B.—By the Friendly Societies Act, 1896, it is enacted that the Chief or other Registrar to whom any dispute is referred in Scotland may grant [such] warrant for the recovery of documents as might be granted by any court of law or equity.

FORM R.—Reg. 31.

Friendly Societies Act, 1896.

Warrant for Recovery of Documents and Examination of Havers in Scotland.

In the matter of a dispute between _____ and
 [an officer of] the _____ Society.
 Register No. _____ (Scotland).

I, _____ Assistant Registrar for Scotland, order and direct as follows :—

That on the _____ day of _____ next
 at _____ o'clock, _____ do appear before me at
 _____, and do bring with him, exhibit and produce
 before me, upon oath, the books, writings, and documents contained in
 the specification prefixed hereto ; and do declare upon oath where and in
 whose hands, custody, or keeping all or any books, writings, or documents
 are or may be relating to the following matters [state the matters] :

Given under my hand this _____ day of _____ 18 .

Signature

Assistant Registrar for Scotland.

N.B.—By the Friendly Societies Act, 1896, is is enacted that “ the Chief
 “ or other Registrar to whom any dispute is referred may administer oaths,
 “ and may require the attendance of all parties concerned, and of witnesses,

"and the production of all books and documents relating to the matter in question; and any person refusing to attend, or to produce any documents, or to give evidence before such Chief or other Registrar, shall be guilty of an offence under this Act."

The penalty for such offence is not less than one pound or more than five pounds, and a new offence is committed in every week during which the default continues.

The Chief or other Registrar in Scotland may grant [such] warrant for the recovery of documents and examination of havers as might be granted by any court of law or equity.

FORM S.—Reg. 32.

Friendly Societies Act, 1896.

Determination and Order.

In the matter of a dispute between _____ and (_____
officer of or) the _____ Society, Register No. _____ [add Scotland
or Ireland where required], referred to me pursuant to the Friendly Societies
Act :

I, _____, Esquire, Chief (or Assistant) Registrar, order and
determine as follows :

The said _____ (or the trustees of the society) shall, on or before the
_____ day of _____ next, pay to _____ the sum of _____
[or the society (or name of party) shall, on or before the _____ day
of _____ next, reinstate the said _____ as a member (or whatever
the act may be that the Registrar thinks ought to be done by the party. Other
provisions may here be added if necessary, and the payment of a sum of
money by way of damages may be provided for as an alternative to the doing
of any act) :

Or The society is not indebted to [name of party, or as the case may require].

The expenses hereof are ordered to be paid out of the funds of the society
(or as the case may be).

Given under my hand this _____ day of _____ .

Signature

Chief [or Assistant] Registrar.

N.B.—Under the Friendly Societies Act, 1896, application for the
enforcement of this order may be made to the County Court, as defined
by the said Act.

FORM T.—Reg. 33.

Friendly Societies Act, 1896.

(To be sent in duplicate accompanied by Form U.)

Application for Approval of Change of Name and Registry of Special Resolution.

Name already registered _____

Register No. _____. [If the society is registered in Scotland or
Ireland, add Scotland or Ireland, as the case may be.]

To the Chief Registrar [or Assistant Registrar for Ireland or Scotland,
as the case may be] and Central Office.

Application for approval of a change of name of the above-mentioned society, and for registry of a special resolution to that effect is made by the three persons whose names are subscribed at the foot hereof.

The following is a copy of a special resolution passed by the votes of three-fourths of the members present and entitled to vote at a general meeting of the society, of which notice was duly given, held on the _____ day of _____ 18____, and confirmed by a majority of the members present and entitled to vote at a subsequent general meeting, of which notice was duly given, held on the _____ day of _____ 18____, * pursuant to section 74 of the Friendly Societies Act, 1896.

* The second meeting must be held not less than 14 days, nor more than one month after the first.

[The resolution to be copied at length.]

With this application is sent the fee of 10s. prescribed by the Treasury regulations.

____ Secretary { _____ { Chairman of the first
general meeting.
_____ { Chairman of the sub-
sequent general meet-
ing.

Registered Office _____

Date _____ day of _____ 18____.

FORM U.—Regs. 33, 34, 35, 42, 43.

Friendly Societies Act, 1896.

Declaration to accompany Application for Registry of a Special Resolution.

Name of Society _____

Register No. _____ [If the society is registered in Scotland or Ireland, add Scotland or Ireland, as the case may be.]

County of _____ to wit.

I, _____ of _____, an officer of the above-named society, do solemnly and sincerely declare that in making the special resolution, application for registry of which is appended to this declaration, the provisions of section 74 of the Friendly Societies Act, 1896, have been duly complied with.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Statutory Declarations Act, 1835.

Taken and received before me, one of Her Majesty's justices of the Peace for the said county of _____ at _____, in _____ the said county, this _____ day of _____ 18____. Signature of declarant.

In the case of an amalgamation of societies a declaration must be made by the secretary of each society.

FORM UI.* Alternative to FORM U.

Friendly Societies Act, 1896.

Information to obtain Registry of a Special Resolution required by the Registrar for the purposes of the A

Name of Society
Register No.

County

I, _____, of _____, secretary of the above-mentioned society, hereby inform the registrar, as required by him for the purposes of the Friendly Societies Act, that in making the special resolution herewith sent for registry, the provisions of section 74 of the Friendly Societies Act, 1896, have been duly complied with
And I, &c. [As in Form CI.]

Signed

Signed

(Sections of Act as in Form CI.)

FORM V.—Regs. 34, 43.

Friendly Societies Act, 1896.

(To be sent in duplicate by each society, accompanied by Form U.)

Application for Registry of Special Resolution for Amalgamation of Societies

(a) Name of Society (A)

(a) As this application must be made by each society, the order in which the societies are named must be inverted or changed in each application.

Register No.

[If the society is registered in Scotland or Ireland, add the words Scotland or Ireland, or as the case may be.]

Name of society (B)

Register No.

[If the society is registered in Scotland or Ireland, add as before.]

(And so on if more than two.)

To the Central Office.

Application for registry of a special resolution for the amalgamation of the above-mentioned societies is made by the three persons whose names are subscribed at the foot hereof.

1. The following is a copy of a special resolution passed by the votes of three-fourths of the members present and entitled to a vote at a general meeting of the (A) _____ of which notice was duly given, held on the _____ day of _____ 18____, and confirmed by a majority of the members present and entitled to vote at a subsequent general meeting, of which notice was duly given, held on the _____ day of _____ 18____, * pursuant to s. 74 of the Friendly Societies Act, 1896.

[The resolution to be copied at length.]

2. (a) The number of votes to which all the members of the (A) _____ Society are entitled pursuant to sec. 70 of the said Act is _____; the number of votes of the members who assented at the said meeting is _____; and the written consents of members entitled to _____ votes, and of every person for the time being, receiving or entitled to any relief, annuity, or other benefit from the funds of the society are appended hereto (except the consents of _____, whose claims have been duly satisfied

* The second meeting must be held not less than 14 days, nor more than one month, after the first.
(a) This will only be necessary when the society is a friendly society, and the consents or any of them have not been dispensed with by the Chief Registrar.

* Form UI was added by the Regulations of June 1897; see Reg. (75) printed at p. 11 above.

or have been provided for, *state in what manner such provision has been made*).

3. With this application is sent the fee of 10s. prescribed by the Treasury regulations.

_____ { Chairman of the first
general meeting.

_____ { Secretary of the
first-named society.

_____ { Chairman of the
subsequent general
meeting.

Registered Office)
[of the A])
Date day of 18 .

FORM W.—Regs. 35, 43.

Friendly Societies Act, 1896.

(To be sent in duplicate, accompanied by Forms U. and X.)

Application for Registry of a Special Resolution for transfer of Engagements.

Name of society transferring its engagements

Register No. . [If the society is registered in Scotland or Ireland, add Scotland or Ireland, as the case may be.]

Name of Society undertaking to fulfil transferred engagements

Register No. . [If the society is registered in Scotland or Ireland add as before.]

To the Central Office.

Application for registry of a special resolution for transfer of engagements of the first-named society is made by the (b) persons whose names are subscribed.

1. The following is a copy of a special resolution passed by the votes of three-fourths of the members present and entitled to vote, at a general meeting of the first-named society, of which notice was duly given, held the day of 18 , and confirmed by a majority of the members present and entitled to vote at a subsequent general meeting of which notice was duly given, held on the day of 18 , pursuant to s. 74 of the Friendly Societies Act, 1896.

[The resolution to be copied at length.]

2. (a) The number of votes to which all the members of the first-named society are entitled pursuant to section 70 of the said Act is ; the number of votes of the members who assented at the said meeting is ; and the written consents of members entitled to votes, and of every person for the time being receiving or entitled to any relief, annuity, or other benefit from the funds of the society are appended hereto (except the consents of whose claims have been duly satisfied or have been provided for (*state in what manner such provision has been made*)).

3. The last-named society, has (*state in what manner*) undertaken to fulfil the engagements of the first-named society, as testified by the

(b) The number will vary according to that of the trustees of the society undertaking to fulfil transferred engagements.

* The second meeting must be held not less than 14 days, nor more than one month, after the first.

(a) This will only be necessary when the society is a friendly society, and the consents or any of them have not been dispensed with by the Chief Registrar.

signatures of the trustee and secretary of the said last-named society to this application, and by the declaration of the secretary of the same sent with this application.

4. With this application is sent the fee of 10s. prescribed by the Treasury regulations.

_____ { Chairman of the first
general meeting.

_____ { Secretary of the
first-named society.

_____ { Chairman of the
subsequent general
meeting.

_____ { Trustees of the last-
named society.

_____ { Secretary of the last-
named society.
Registered Office of }
transferring society. }
Date day of 18 .

FORM X.—Reg. 35.

Friendly Societies Act, 1896.

Declaration by Officer of Society accepting Transfer of Engagements.

Name of society _____
Register No. _____ [If the Society is registered in Scotland or
Ireland, add Scotland or Ireland, as the case may be.]
County of _____ to wit.

I, _____ of _____, an officer of the above-named society,
do solemnly and sincerely declare that by a resolution of a meeting of
the society held on the _____ day of _____, at _____
[or as the case may be, stating by what authority the transfer is accepted]
the society has undertaken to fulfil all the engagements of the
Society, Registered No. _____ [add Scotland or Ireland if required].

And I make this solemn declaration conscientiously believing the same
to be true and by virtue of the provisions of the Statutory Declarations
Act, 1835.

Taken and received before me, one of }
Her Majesty's justices of the peace }
for the said county of _____ }
at _____, in the said } Signature of declarant.
county, this _____ day of _____ }
18 .

FORM XI.* Alternative to FORM X.

Friendly Societies Act, 1896.

Information to obtain Registry of Transfer of Engagements required by the Registrar for the purposes of the Act.

Name of Society _____
Register No. _____ County _____
I, _____ of _____, secretary of the above-named
society, hereby inform the registrar, as required by him for the purposes

* Form XI was added by the Regulations of June 1897; see Reg. (75) printed at p. 11 above.

of the Friendly Societies Act, that the said society has undertaken to fulfil all the engagements of the _____ society, register No. _____, in the following manner. [State in what manner and by what authority the transfer has been accepted.]

And I, &c. [As in Form CI.]

Signed _____

Signed _____

..... [Sections of Act as in Form CI.]

FORM Y.—Reg. 36.

Friendly Societies Act, 1896.

Advertisement of Application for Dispensing with Consents or Conditions for Amalgamation or Transfer of Engagements.

Notice is hereby given that the _____ Society, Registered No. _____ [adding Scotland or Ireland where required], whose Registered Office is at _____ in the county of _____ desires to amalgamate with [or transfer all its engagements to] the _____ society, Register No. _____ [adding Scotland or Ireland where required], [or the _____, a Company under the Companies Acts]. And that on the _____ day of _____ the Trustees [or Committee of Management] of the first-named society intend to apply to the Chief Registrar that the following consents and conditions prescribed by the Friendly Societies Act, 1896, for an amalgamation or transfer of engagements may be dispensed with, viz. [state what consents and conditions].

Signed _____ { Trustees [or Members
_____ of the Committee of
_____ Management].

(To be published in "Gazette" at least one calendar month before application.

FORM Z.—Reg. 37.

Friendly Societies Act, 1896.

Application for Dispensing with Consents or Conditions for Amalgamation or Transfer of Engagements.

Name of Society _____

Register No. _____. [If the society is registered in Scotland or Ireland, add Scotland or Ireland, as the case may be.]

Application is made by the Trustees [or Committee of Management] of the above-named society for the purpose hereinafter mentioned.

1. The above-named society desires to amalgamate with [or transfer all its engagements to] the _____ Society, Register No. _____ [add Scotland or Ireland where required], [or the _____ Company, a Company under the Company Acts].

2. The Trustees [or Committee of Management] of the first-named society hereby apply to the Chief Registrar that the following consents and conditions prescribed by the Friendly Societies Act for an Amalga-

mation or transfer of engagements may be dispensed with, viz. [*state what consents and conditions*].

3. Notice of the intention to make the present application was advertised in the ["London, Edinburgh, or Dublin Gazette," *as the case may be*], on the _____ day of _____, being one calendar month previous to the date of this application, and a copy of the "Gazette" in which such notice appears is sent herewith.

Signed _____ { Trustees [or Members
of the Committee of
Management].
Dated _____ day of _____ 18 .

FORM AA.—Reg. 42.

Friendly Societies Act, 1896.

(To be sent in triplicate, accompanied by Forms U. and AC.)

Application for Registry of Special Resolution for Conversion into a Company.

Name of Society _____
Register No. _____. [*If the society is registered in Scotland or Ireland, add Scotland or Ireland, as the case may be.*]

To the Central Office.

Application for registry of a special resolution for conversion of the above-mentioned society into a company is made by the three persons whose names are subscribed at the foot hereof.

The following is a copy of a special resolution passed by the votes of three-fourths of the members present and entitled to a vote at a general meeting of the said society, of which notice was duly given, held on the _____ day of _____ 18 , and confirmed by a majority of the members present and entitled to vote at a subsequent general meeting, of which notice was duly given, held on the _____ day of _____ 18 ,* pursuant to s. 74 of the Friendly Societies

Act, 1896.

[*The resolution to be copied at length.*]

With this application is sent the fee of 10s. prescribed by the Treasury regulations.

_____, Secretary. { Chairman of the first
general meeting.
_____, { Chairman of the
subsequent general
meeting.
Registered Office
Date _____ day of _____ 18 .

FORM AC.—Reg. 43.

Friendly Societies Act, 1896.

Declaration by Officer of Company amalgamating or accepting Transfer of Engagements.

Name of company _____
County of _____ to wit.
I, _____, of _____, an officer of the above-named company, do solemnly and sincerely declare that by a resolution of a special

* The second meeting must be held not less than 14 days, nor more than one month, after the first.

general meeting of the company, held on the _____ day of _____
 at _____ [or as the case may be, stating by what authority the amalga-
 mation is agreed to or the transfer of engagements accepted], the company
 has agreed to an amalgamation with [or undertaken to fulfil the engage-
 ments of] the _____ Society, Reg. No. _____ [add
 Scotland or Ireland, if required].

And I make this solemn declaration conscientiously believing the same
 to be true, and by virtue of the provisions of the Statutory Declarations
 Act, 1835.

Taken and received before me, one of _____
 Her Majesty's justices of the peace
 for the said county of _____ } Signature of declarant.
 at _____ in the said county, this _____
 day _____, 18 ____.

FORM AD.—Reg. 48.

Friendly Societies Act, 1896.

Application under special Powers of Registrar.

(To be sent in duplicate accompanied by Form AE.)

Name of Society _____

Register No. _____ [If the society is registered in Scotland or
 Ireland, add Scotland or Ireland, as the case may be.]

Application made pursuant to s. 76 of the Friendly Societies Act, 1896.

1. The above-mentioned society has _____ members.
2. This application is signed by one-fifth of the members [or by 100
 members if the whole number amounts to 1000, and does not
 exceed 10,000; or 500 members if the whole number exceeds
 10,000].
3. The application is that the Chief Registrar [or Assistant Registrar
 for Scotland, or for Ireland] may appoint inspectors [or may
 call a special meeting] pursuant to the said section.
4. The grounds of the application are as follows [state the grounds
 fully].
5. The applicants are prepared to support the application by the
 following evidence, for the purpose of showing that they have
 good reason for making the application, and are not actuated
 by malicious motives in doing so, viz., a statutory declaration
 hereto annexed by [names] three of the present applicants, and
 [here state the nature of the evidence proposed to be given].
6. The applicants are prepared, if required, to give security for costs
 to the extent of [state amount].
7. With this application is sent the fee of 1*l.* prescribed by the Treasury
 regulations.

(a) Signatures of applicants.

Address to which communications are to be sent _____

Date _____ day of _____ 18 ____.

(a) Signatures
 by mark only
 must be attested
 by a witness not
 being one of the
 applicants.

FORM AE.—Reg. 48.

Friendly Societies Act, 1896.

Declaration in support of Application under special Powers of Registrar.

Name of society

Register No. . [If the society is registered in Scotland or Ireland, add Scotland or Ireland, as the case may be.]

County of to wit.

We, three of the members of the above-named society, do solemnly and sincerely declare that the persons whose signatures are appended to the application, a copy of which is hereto annexed, are to the best of our knowledge and belief *bonâ fide* members of the society, and that we are not, nor to the best of our knowledge and belief is any person whose signature is appended to such application, actuated by malicious motives, and that to the best of our knowledge and belief there is good reason for making such application.

And we make this solemn declaration, conscientiously believing the same to be true, and by virtue of the provisions of the Statutory Declarations Act, 1835.

Taken and received before me, one of
Her Majesty's Justices of the Peace
for the said County of
at , in the said
county, this day of } Signature of Declarants.

FORM AF.—Reg. 50.

Friendly Societies Act, 1896.

Appointment of Inspectors.

Name of society

Register No. . [Add Scotland or Ireland where required.]

Pursuant to section 76 of the Friendly Societies Act, 1896, I hereby appoint [and], inspector [or inspectors] to examine into the affairs of the above-mentioned society and to report thereon.

One copy of the application for inspection is sent herewith for the guidance of the inspector [or inspectors].

He [or they] may require the production of all or any of the books and documents of the society, and may examine on oath its officers, members, agents, and servants in relation to its business, and may administer such oath.

The inspection is to commence on the day of
next at o'clock, and to be held at .

Signature,

Chief Registrar

[or Assistant Registrar for Scotland or Ireland].

Date day of

18 .

FORM AG.—Reg. 51.

Friendly Societies Act, 1896.

Notice of Special Meeting to be held by a Registrar's Direction.

[To be given either by letter addressed to every member, or by advertisement, or in such other manner as the Chief or Assistant Registrar directs.]

Name of society
Register No. [If the society is registered in Scotland or Ireland,
add Scotland or Ireland, as the case may be.]

Notice is hereby given that a special meeting of the above-mentioned society will be held by direction of the Chief Registrar [or Assistant Registrar for Scotland or for Ireland] pursuant to section 76 of the Friendly Societies Act, 1896, on the day of next, at o'clock, at which meeting shall appoint its own chairman, and shall then proceed to discuss and determine on the following matters [state them].

Signature,

Chief Registrar

[or Assistant Registrar for Scotland or Ireland].

Date

day of

18 .

FORM AH.—Reg. 52.

Friendly Societies Act, 1896.

Report by Chairman of Special Meeting.

Address

Date

To the Chief Registrar of Friendly Societies [or to the Assistant Registrar of Friendly Societies for Scotland or Ireland, as the case may be].

I have to report that at the special meeting of the society held by your direction at on the day of the following resolution was [or resolutions were] passed [state resolution or resolutions, and any other matters which the writer may think proper to report].

(Signed)

Chairman of Special Meeting.

FORM AI.—Reg. 53.

Friendly Societies Act, 1896.

Request to Cancel Registry.

Name of society

Register No. [If the society is registered in Scotland or Ireland,
add Scotland or Ireland, as the case may be.]

To the Chief Registrar [or in the case of a society registered and doing business in Scotland or Ireland exclusively, to the Assistant Registrar for Scotland or Ireland, as the case may be].

1. The above-mentioned society desires that its registry under the Friendly Societies Acts may be cancelled on the following ground, viz. [*state reason for desiring cancelling of registry, as for instance, that it is a branch of the which has been registered as a single society, or as the case may be*] and at a general meeting * duly held on the day of 18 : It was resolved as follows :—

* If not at a general meeting, state in what manner the request has been determined upon.

“That the trustees be authorised to request the Chief [*or Assistant*] Registrar to cancel the registry of this society.”

2. This request is made by the trustees accordingly.

3. It is desired that notice of such cancelling be published in the [*naming some newspaper in general circulation in the neighbourhood of the registered office of the society*].

4. The sum of , being the cost of publishing such notice in the said newspaper, and the further sum of for the cost of publishing the same in the “Gazette,” are herewith transmitted.

_____) Trustees.

Registered Office,

Date day of 18 .

FORM AK.—Reg. 55.

Friendly Societies Act, 1896.

Notice before Cancelling or Suspension of Registry.

Name of Society.

Register No. . [*If the society is registered in Scotland or Ireland, add Scotland or Ireland, as the case may be.*]

Notice is hereby given to the above-mentioned society, that it is the intention of the Chief Registrar [*or Assistant Registrar for Scotland or Ireland, as the case may be*] to proceed on the * day of 18 , to cancel [*or to suspend for any term not exceeding three months*] the registry of the society, unless cause be shown to the contrary in the meantime.

* This will be not less than two months after the date of the notice.

The ground of such proposed cancelling [*or suspension*] is that the acknowledgment of registry has been obtained by fraud [*or issued in mistake, or that the society exists for an illegal purpose, or has wilfully and after notice from me violated the provisions of the Friendly Societies Act, or has ceased to exist. The facts should be briefly specified where practicable*].

Signature,

Chief Registrar [*or Assistant Registrar, for Scotland or Ireland*].

Date day of 18 .

FORM AL.—Reg. 56.

Friendly Societies Act, 1896.

Cancelling of Registry.

Name of Society

Register No. [If the society is registered in Scotland or Ireland, add Scotland or Ireland, as the case may be.]

The registry of the above-mentioned society is hereby cancelled at its request [or as the case may be. The Registrar may, if he thinks fit, add a statement as in Form A.K. of the ground of the cancelling].

Signature,

Chief Registrar,
[or Assistant Registrar for Scotland or Ireland].

Date day of 18 .

FORM AM.—Reg. 57.

Friendly Societies Act, 1896.

Suspension or Renewal of Suspension of Registry.

Name of Society

Register No. [If the society is registered in Scotland or Ireland, add Scotland or Ireland, as the case may be.]

The registry of the above-mentioned society is hereby [further *] suspended for [any term not exceeding] three months from this date on the ground that [here state the ground of suspension as in Form A.K.].

* This word
will be inserted
only in case of
renewal of
suspension.

Signature,

Chief Registrar,
[or Assistant Registrar for Scotland or Ireland].

Date (day of 18 .

FORM AN.—Reg. 58.

Friendly Societies Act, 1896.

Advertisement of Cancelling or Suspension.

Notice is hereby given that the Chief Registrar of Friendly Societies [or Assistant Registrar of Friendly Societies for Ireland or for Scotland] has, pursuant to s. 77 of the Friendly Societies Act, 1896, by writing under his hand, dated the day of 18 , CANCELLED [or SUSPENDED for (state the term)] the REGISTRY of the Society (Register No. , adding Scotland or Ireland where required) held at in the county of .

[Here state the ground for cancelling or suspension.]

The society (subject to the right of appeal given by the Act) ceases to enjoy [during such suspension] the privileges of a registered society, but

without prejudice to any liability incurred by the society, which may be enforced against it as if such cancelling [or suspension] had not taken place.

[Signature of Chief Registrar or Assistant
Registrar for Scotland or Ireland.]

FORM AO.—Reg. 60.

Friendly Societies Act, 1896.

Instrument of Dissolution.

(To be signed in duplicate and accompanied by Form AP.)

Name of society

Register No. [England, Scotland, or Ireland.]

Instrument of dissolution of the above-named society, made the day of 18, pursuant to s. 79 of the Friendly Societies Act, 1896, and the Treasury Regulations.

It is declared and agreed as follows :—

(a) The value of members is ascertained by giving one vote to every member, and an additional vote for every five years that he has been a member, but to no one member more than five votes in all.

(b) State in what manner such provision has been made.

(c) Here set them forth in detail. State whether any part of the funds is in the Post Office Savings Bank.

(d) Or if there be any, state the amount due to them, and the provision to be made for its payment.

1. This instrument is signed by [in the case of a society not a Friendly Society, three-fourths of the members; but in the case of a Friendly Society] five-sixths in value (a) of the members (including honorary members, if any), and by every person for the time being receiving or entitled to receive any relief, annuity, or other benefit from the funds of the society [except whose claims have been duly satisfied or have been provided for (b)].

2. The liabilities and assets of the society are the following (c) :—

3. The number of members is , and the nature of their interests in the society respectively is as follows :—

4. The society has no creditors (d).

5. The funds and property of the society shall be appropriated and divided in the following manner [or in such manner as the Chief Registrar may award. If left to the award of the Chief Registrar, add The fee of 1l. prescribed by the Treasury regulations is sent herewith].

6. It is desired that this instrument be advertised in the [state some newspaper in general circulation in the neighbourhood of the registered office of the society] as well as the London [Edinburgh or Dublin] "Gazette," and the cost of such advertisements is herewith transmitted.

[Here insert any other provisions the society desires to make as to the dissolution.]

Signatures of members.

Number of votes of each member.

Signatures of persons receiving or entitled to receive any relief, annuity, or other benefit from the funds of the society.

Schedule.

List of members who have not signed the foregoing instrument—

Number of votes of each.

N.B.—All signatures by mark only must be attested by a witness who does not sign as a member.

FORM AOB.—Reg. 60.

Friendly Societies Act, 1896.

Instrument of Dissolution of Branch.

(To be signed in duplicate and accompanied by Form A.P.)

Name of society .

Register No. . [England, Scotland, or Ireland.]

Name and number (if any) of Branch .

Instrument of dissolution of the above-named branch made the
day of 18 , pursuant to s. 79 of the Friendly
Societies Act, 1896, and the Treasury Regulations.

It is declared and agreed as follows :—

1. This instrument is signed by five-sixths in value (a) of the members (including honorary members, if any) and by every person for the time being receiving or entitled to receive any relief, annuity, or other benefit from the funds of the branch [except whose claims have been duly satisfied or have been provided for (b)].

(a) The value of members is ascertained by giving one vote to every member, and an additional vote for every five years that he has been a member, but to no one member more than five notes in all.

2. The liabilities and assets of the branch are the following (c) :—

(b) State in what manner such provision has been made.

3. The number of members is , and the nature of their interests in the branch respectively is as follows :—

(c) Here set them forth in detail. State if any part of the funds is in the Post Office Savings Bank.

4. The branch has no creditors (d).

5. The funds and property of the branch shall be appropriated and divided in the following manner [or in such manner as the Chief Registrar may award. *If left to the award of the Chief Registrar, add The fee of 1*l*. prescribed by the Treasury regulations is sent herewith.*]

(d) Or if there be any, state the amount due to them, and the provision to be made for its payment.

6. It is desired that this instrument be advertised in the [state some newspaper in general circulation in the neighbourhood of the registered office of the branch] as well as in the London [Edinburgh or Dublin] "Gazette," and the cost of such advertisements is herewith transmitted.

[Here insert any other provisions the branch desires to make as to the dissolution.]

Signatures of members.

Number of votes of each member.

Signatures of persons receiving or entitled to receive any relief, annuity, or other benefit from the funds of the branch.

Schedule.

List of members who have not signed the foregoing instrument—

Number of votes of each.

N.B.—All signatures by mark only must be attested by a witness who does not sign as a member.

The consent of the central body of the society has been given to the dissolution.

Signature of the secretary of the society .

Date

day of

18 .

FORM AP.—Reg. 60.

Friendly Societies Act, 1896.

Declaration to accompany Instrument of Dissolution of Society or Branch.

Name of Society [and name and No., if any, of branch]
 Register No. of society [If the society (or branch) is
 registered in Scotland or Ireland, add Scotland or Ireland, as the case may
 be.]

County of _____ to wit.
 I, _____ of _____, one of the trustees [or we,
 _____ and _____ three members, and _____ the
 secretary] of the above-named society [or branch] do solemnly and sincerely
 declare that in making the instrument of dissolution [or the alteration of
 the instrument of dissolution] appended to this declaration, the provisions
 of the Friendly Societies Act, 1896, have been complied with.

And I [or we] make this solemn declaration conscientiously believing
 the same to be true and by virtue of the provisions of the Statutory Declara-
 tions Act, 1835.

Taken and received before me, one of Her
 Majesty's justices of the peace for the } Signature of declarant or
 said county of _____ at _____ declarants.
 in the said county, this
 day of _____ 18 .

FORM AQ.—Reg. 61.

Friendly Societies Act, 1896.

*Acknowledgment of Registry of Instrument (or alteration of instrument) of
Dissolution.*

Name of Society [and name and No., if any, of branch]
 Register No. of society [Add Scotland or Ireland
 where required.]

The foregoing instrument of dissolution [or alteration of the instrument
 of dissolution] of the above-named society [or branch] is registered under
 the Friendly Societies Act, 1896, this _____ day of
 18 .

[Seal or stamp of Central Office,
 or
 Signature of Assistant Registrar for
 Scotland or Ireland.]

FORM AR.—Reg. 63.

Friendly Societies Act, 1896.

Advertisement of Dissolution by Instrument.

Notice is hereby given that the [branch of the]
 society, Register No. [add Scotland or Ireland where
 required] held at _____ in the county of _____ is dissolved by
 instrument, registered at this office, the _____ day of _____
 unless within three months from the date of the "Gazette" in which this

advertisement appears proceedings be commenced by a member or other person interested in or having any claim on the funds of the society [or branch] to set aside such dissolution, and the same is set aside accordingly.

[Signature of Chief Registrar or Assistant Registrar for England, for the Central Office, or of Assistant Registrar for Scotland or Ireland.]

28, Abingdon Street, Westminster.

[or as the case may be]
the day of

Form AS.—Reg. 69.

Friendly Societies Act, 1896.

Award for Distribution of Funds of Society.

Name of Society

Register No. . [Add Scotland or Ireland where required.]

Pursuant to sec. 79 of the Friendly Societies Act, 1896, and to the instrument of dissolution of the said society, registered on the day of 18, I hereby award and direct that the assets of the society shall be divided and appropriated in the following manner :—

Signed,

Chief Registrar.

Address

Date day of 18 .

Form AT.—Reg. 65.

Friendly Societies Act, 1896.

Application to Chief Registrar for Award of Dissolution of Society.

Name of Society

Register No. . [If the Society is registered in Scotland or Ireland, add Scotland or Ireland, as the case may be.]

Application for an award of dissolution of the above-mentioned society is made by the members whose names are subscribed at the foot hereof.

1. The society consists of members, one-fifth of the whole number of whom [or 100 or more of whom if the society has 1000 members and not exceeding 10,000, or 500 or more of whom if the society has more than 10,000 members] have signed this application.

2. The funds of the society are insufficient to meet the existing claims thereon [or the rates of contribution fixed in the rules of the society are insufficient to cover the benefits assured].

3. The grounds upon which such insufficiency is alleged are as follows :—[state grounds].

4. The Chief Registrar is hereby requested to make or cause to be made, pursuant to s. 80 of the Friendly Societies Act, 1896, an investigation into the affairs of the society with a view to the dissolution thereof.

5. It is desired that notice of the award of dissolution be published in the [naming some newspaper in general circulation in the neighbourhood of the registered office of the society.]

6. The sum of _____, being the cost of publishing such notice in the said newspaper, and the further sums of _____ for the cost of publishing the same in the "Gazette" and 1*l.*, the fee for the award prescribed by the Treasury regulations, are herewith transmitted.

* Any signature by mark only must be attested by a witness who does not sign as a member.

Signatures of Members.*

Registered office

Date

day of

18 .

Form AU.—Reg. 66.

Friendly Societies Act, 1896.

Notice of Investigation.

Name of Society

Register No.

[Add Scotland or Ireland, where required.]

Notice is hereby given that the Chief Registrar will proceed by himself [or by the Actuary to the Central Office or by (name of) Assistant Registrar, or Actuary, or Public Auditor, whom the Chief Registrar hereby appoints for the purpose] to investigate the affairs of the above-mentioned society, in compliance with an application in that behalf made pursuant to sec. 80 of the Friendly Societies Act, 1896, on the _____ day of _____ 18____ (two months at least after the date of the notice), at _____ o'clock, at _____ in the county of _____, and he hereby directs that in the event of an award of dissolution being made, the date of the said investigation shall be the date at which all contributions and benefits shall cease.

Signed,

Chief Registrar.

Address

Date

day of

18 .

(To be addressed to the Society at its registered office.)

Form AV.—Reg. 66.

Friendly Societies Act, 1896.

Award of Dissolution of Society.

Name of Society

Register No.

Pursuant to sec. 80 of the Friendly Societies Act, 1896, I hereby award that the _____ shall be dissolved and its affairs wound up as from the _____ day of _____, and I direct that the assets of the said society shall be divided and appropriated in the following manner:—

Signed,

Chief Registrar.

Address

Date

day of

18 .

Form AW.—Reg. 67.

Friendly Societies Act, 1896.

Advertisement of Dissolution of Society by Award.

Notice is hereby given that _____ on the _____ day of _____ the Chief Registrar signed an award for the dissolution of the _____ society, Register No. _____ [add Scotland or Ireland where required] held at _____ in the county of _____ and that such society is thereby dissolved, unless within three months from the date of the "Gazette" in which this advertisement appears proceedings be commenced by a member or other person interested in, or having any claim on the funds of the society to set aside such dissolution, and the same be set aside accordingly.

 { [Signature of Chief Registrar
 or Assistant Registrar for
 England for the Central
 Office, or of Assistant Re-
 gistrar for Scotland or
 Ireland.]

28, Abingdon Street, Westminster.
 [or as the case may be.]

Date _____ day of _____ 18 .

Form AX.—Reg. 68.

Friendly Societies Act, 1896.

Notice of Proceeding to set aside Dissolution of Society [or Branch].

Name of Society _____ .

Register No. _____ . [If the society is registered in Scotland or Ireland, add Scotland or Ireland, as the case may be.]

Name [and Number (if any)] of branch _____

Registered Office of Branch _____ . (If in Scotland or Ireland, add Scotland or Ireland, as the case may be.)

To the central Office _____ .

Whereas on the _____ day of _____ the above-named society [or the above-named branch] was dissolved [or purported to be dissolved] by an instrument of dissolution purporting to be duly registered.

I hereby give you notice that I intend, after not less than seven days from the date hereof, to take proceedings for setting aside such dissolution in the _____ County Court [or Sheriff Court, or Recorder's Court, as the case may be].

Dated _____ day of _____ 18 .

Signed _____

Address _____

FRIENDLY SOCIETY.

Form AY.—Reg. 68.

Friendly Societies Act, 1896.

Notice of Order to set aside Dissolution.

Name of Society

Register No. . [If the Society is registered in Scotland or Ireland, add Scotland or Ireland, as the case may be.]

Name [and Number (if any)] of branch

Registered Office of branch . (If in Scotland or Ireland, add Scotland or Ireland, as the case may be.)

To the Central Office

Whereas on the day of the above-named society [or the above-named branch] was dissolved or purported to be dissolved by an instrument of dissolution purporting to be duly registered.

The above-named society [or branch] hereby gives you notice that by an order of the County Court [or Sheriff Court, or Recorder's Court], dated the day of copy whereof is hereto annexed, the dissolution of the said society [or branch] was set aside.

_____ } Trustees.
_____, Secretary.

Registered Office

Date day of 18 .

(This notice must be sent within seven days after the order to set aside dissolution is made. A copy of the order is to be annexed.)

Form .—Reg. 76.*

Friendly Societies Act, 1896,

and

Shop Clubs Act, 1902.

Application to Register a Society and for Certificate.

Name of Society

[Has the Society ever had any Rules registered, certified or enrolled?
(Answer) .]

Nature of Employment

Situation of Works

1. This application is made by the undersigned employer and Workmen.

2. The undersigned Workmen have been authorised to join in it by being not less than three-fourths of the total number of Workmen in the employment.

* This new Form was added by the Regulations of January 1, 1903.

3. The Society is a Friendly Society.
4. The following are the benefits provided by the Rules at the cost of the Employer
5. The contribution of the Employer is to be
6. The Society is of a permanent character and is not a Society that annually or periodically divides its funds.
7. The rights of a member leaving the employment are as follows :—
8. The matters required to be set forth in the Rules are provided for in the manner shewn by the subjoined Schedule :—

Matters required to be set forth in the Rules.	Numbers of the Rules in which these Matters are provided for.
(i.) The name and place of Office of the Society, and the sending to the Registrar notice of any change thereof within 14 days.	(i.)
(ii.) The whole of the objects for which the Society is to be established, the purposes for which the funds thereof shall be applicable, the terms of admission of Members, the conditions under which any Member may become entitled to any benefit assured thereby, and the fines and forfeitures to be imposed on any Member, and the consequences of non-payment of any subscription or fine.	(ii.)
(iii.) The mode of holding meetings and right of voting and the manner of making, altering, or rescinding rules, and the supplying every person on demand with a copy of the rules at a price not exceeding 1s.	(iii.)
(iv.) The appointment and removal of a Committee of Management, of a Treasurer, and other Officers, and of Trustees, and the sending to the Registrar notice of every appointment of a new Trustee within 14 days.	(iv.)
(v.) The investment of the funds, the keeping of the accounts, and the audit of the same once a year at least.	(v.)
(vi.) Annual returns in the prescribed form to the Registrar of the receipts, funds, effects, and expenditure, and number of Members of the Society before the 1st of June in every year.	(vi.)

Matters required to be set forth in the Rules.	Numbers of the Rules in which these Matters are provided for.
(vii.) The inspection of the books of the Society by every person having an interest in the funds of the Society.	(vii.)
(viii.) The manner in which disputes shall be settled.	(viii.)
(ix.) The keeping separate accounts of all moneys received or paid on account of every particular fund or benefit assured for which a separate table of contributions payable shall have been adopted, and the keeping separate account of the expenses of management and of all contributions on account thereof.	(ix.)
(x.) A valuation once at least in every five years of the assets and liabilities of the Society, including the estimated risks and contributions.	(x.)
(xi.) The voluntary dissolution of the Society by consent of not less than five-sixths in value of the persons contributing, testified by their signatures to the instrument of dissolution, and of every person for the time being entitled to any benefit from the funds of the Society, unless his claim be first satisfied or adequately provided for.	(xi.)
(xii.) The right of one-fifth of the total number of Members [or of one hundred Members if the Society have 1000 and not exceeding 10,000, or of 500 Members if the Society have more than 10,000] to apply for an investigation of the affairs or the calling of a special meeting of the Society, or for winding up the same.	(xii.)

With this application are sent :—

Two printed Copies of the Rules signed by each of the applicants.

Signed 1.	Employer.
2.	Workman.
3.	"
4.	"
5.	"
6.	"
7.	"
8.	"

List of the Names of the Secretary, and of every Trustee of the Society.
(The Secretary or Treasurer cannot be a Trustee.)

Name in full of Secretary

Postal Address

Name in full of first Trustee

Address

Occupation

Name in full of second Trustee

Address

Occupation

Name in full of third Trustee

Address

Occupation

[The like as to other Trustees, if any.]

SIGNATURES—

Secretary.

Trustee.

Trustee.

Trustee.

Registered Office,

Date day of

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To THE REGISTRAR OF FRIENDLY SOCIETIES,
28, Abingdon Street, London, S.W.

FUGITIVE CRIMINAL.

- | | |
|--|---|
| 1. <i>Under Extradition Acts,</i>
p. 1. | 2. <i>Under Fugitive Offenders</i>
<i>Act, p. 324.</i> |
|--|---|

1. Under Extradition Acts.

- | | |
|---|---|
| I. <i>Arrangements with Foreign</i>
<i>States, p. 1.</i> | <i>Criminals of Foreign States</i>
<i>in British Possessions, p.</i> |
| II. <i>Surrender of Fugitive</i> | 290. |

I. Arrangements with Foreign States.

ORDERS IN COUNCIL DIRECTING THAT THE EXTRADITION ACTS SHALL
APPLY IN THE CASES OF FOREIGN STATES.

(a) Argentine Republic.

1894. No. 76.

At the Court at Osborne House, Isle of Wight, the 29th day of
January, 1894.

PRESENT :

The Queen's Most Excellent Majesty.

Lord Steward.	Sir John Cowell.
Sir William Vernon Harcourt.	Sir Philip Currie.
Sir Henry Ponsonby.	

Whereas by the Extradition Acts, 1870 * and 1873,† it was amongst other things enacted that where an arrangement has been made with any foreign State with respect to the surrender to such State of any fugitive criminals, Her Majesty may, by Order in Council, direct that the said Acts shall apply in the case of such foreign State; and that Her Majesty may, by the same or any subsequent Order, limit the operation of the Order, and restrict the same to the fugitive criminals who are in, or suspected of being in, the part of Her Majesty's dominions specified in the Order, and render the operation thereof subject to such conditions, exceptions, and qualifications as may be deemed expedient; and that if by any law made after the passing of the Act of 1870 by the Legislature of any British possession, provision is made for carrying into effect within such possession the surrender of fugitive criminals who are in, or

* 33 & 34 Vict. c. 52.

† 36 & 37 Vict. c. 60.

suspected of being in, such British possession, Her Majesty may, by the Order in Council applying the said Acts in the case of any foreign State, or by any subsequent Order, suspend the operation within any such British possession of the said Acts, or of any part thereof, so far as it relates to such foreign State, and so long as such law continues in force there and no longer :

And whereas by an Act of the Parliament of Canada, passed in 1886,* and entitled An Act respecting the Extradition of Fugitive Criminals, provision is made for carrying into effect within the dominion the surrender of fugitive criminals :

And whereas by an Order of Her Majesty the Queen in Council, dated the 17th day of November, 1888,† it was directed that the operation of the Extradition Acts, 1870‡ and 1873,§ should be suspended within the dominion of Canada so long as the provision of the said Act of the Parliament of Canada of 1886 should continue in force and no longer :

And whereas a treaty was concluded on the 22nd day of May, 1889, between Her Majesty and the President of the Argentine Republic for the mutual extradition of fugitive criminals, which treaty is in the terms following :—

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and his Excellency the President of the Argentine Republic, having judged it expedient, with a view to the better administration of justice and to the prevention of crime within the two countries and their jurisdictions, that persons charged with or convicted of the crimes or offences herein-after enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up, have named as their Plenipotentiaries to conclude a Treaty (that is to say) :

“ Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Her Chargé d’Affaires *ad interim* Mr. George Jenner :

“ And his Excellency the President of the Argentine Republic, his Excellency Doctor Don Norberto Quirno Costa, Secretary of State for the Department of Foreign Affairs :

“ Who, after having communicated to each other their respective Full Powers, found in good and due

“ Juzgando conveniente Su Majestad la Reina del Reino Unido de la Gran Bretaña e Irlanda, y su Excelencia el Presidente de la República Argentina, á objeto de una mejor administracion de justicia y de impedir la perpetracion de crímenes dentro de los dos países y sus jurisdicciones, que los individuos acusados ó convictos de los crímenes ó delitos mas adelante enumerados, y que hayan huido de la justicia, sean reciprocamente entregados en ciertas circunstancias, han nombrado sus Plenipotenciarios para concluir un Tratado, á saber :

“ Su Majestad la Reina del Reino Unido de la Gran Bretaña e Irlanda, á su Encargado Interino de Negocios en la República, Señor Jorge Jenner :

“ Y su Excelencia el Presidente de la República Argentina, á su Ministro Secretario de Estado en el Departamento de Relaciones Exteriores, Doctor Don Norberto Quirno Costa :

“ Los cuales, despues de haberse comunicado sus respectivos Plenos Poderes, hallados en buena y de-

* “ The Extradition Act ” (Revised Statutes of Canada, c. 142).

† Printed at p. 290 below. ‡ 33 & 34 Vict. c. 52. § 36 & 37 Vict. c. 60.

form, have agreed upon and concluded the following Articles:—

“ ARTICLE I.

“ The High Contracting Parties engage to deliver up to each other, under certain circumstances and conditions stated in the present Treaty, those persons who, being accused or convicted of any of the crimes or offences enumerated in Article II., committed in the territory of the one Party, shall be found within the territory of the other Party.

“ ARTICLE II.

“ Extradition shall be reciprocally granted for the following crimes or offences:—

“ 1. Murder (including assassination, parricide, infanticide, poisoning), or attempt or conspiracy to murder.

“ 2. Manslaughter.

“ 3. Administering drugs or using instruments with intent to procure the miscarriage of women.

“ 4. Rape.

“ 5. Carnal knowledge, or any attempt to have carnal knowledge of a girl under 16 years of age, if the evidence produced justifies commitment for those crimes according to the laws of both the Contracting Parties.

“ 6. Indecent assault.

“ 7. Kidnapping and false imprisonment, child stealing.

“ 8. Abduction.

“ 9. Bigamy.

“ 10. Maliciously wounding or inflicting grievous bodily harm.

“ 11. Assault occasioning actual bodily harm.

“ 12. Threats by letter or otherwise, with intent to extort money or other things of value.

“ 13. Perjury or subornation of perjury.

“ 14. Arson.

“ 15. Burglary or housebreaking, robbery with violence, larceny, or embezzlement.

bida forma, han convenido y concluido los Artículos siguientes:—

“ ARTICULO I.

“ Las Altas Partes Contratantes se comprometen á entregarse reciprocamente, en las circunstancias y condiciones expuestas en la presente Tratado, aquellas personas que, acusadas ó convictas de cualquiera de los crímenes ó delitos enumerados en el Artículo II, cometidos en el territorio de una de las Partes, fueran halladas dentro del territorio de la otra.

“ ARTICULO II.

“ La extradición se concederá recíprocamente por los siguientes crímenes ó delitos:—

“ 1. Asesinato (incluso el asesinato con violencia, parricidio, infanticidio, ó envenenamiento), ó la tentativa ó conspiración para asesinar.

“ 2. Homicidio.

“ 3. La administración de drogas ó el empleo de instrumentos con el propósito de procurar el aborto.

“ 4. Estupro.

“ 5. Conocimiento carnal ó las tentativas de tenerlo con una niña menor de diez y seis años, siempre que el testimonio aducido justifique el enjuiciamiento por esos crímenes, según las leyes de las dos Altas Partes Contratantes.

“ 6. Atentado contra el pudor.

“ 7. Robo y secuestro de un ser humano, sustracción de niño.

“ 8. Rapto.

“ 9. Bigamia.

“ 10. Lesiones ó daño corporal grave hecho intencionalmente.

“ 11. Ataque á las personas del que resulte grave daño corporal.

“ 12. Amenazas, ya sea por medio de cartas ó de otra manera, con la intención de sacar dinero ú otros objetos de valor.

“ 13. Perjurio ó tentativas de conseguirlo.

“ 14. Incendio voluntario.

“ 15. Robo, ú otros crímenes ó sus tentativas cometidas con fractura, robo con violencia, hurto y malversación de valores públicos ó particulares.

" 16. Fraud by a bailee, banker, agent, factor, trustee, director, member, or public officer of any Company, punishable with imprisonment for not less than one year by any law for the time being in force.

" 17. Obtaining money, valuable security, or goods by false pretences; receiving any money, valuable security, or other property, knowing the same to have been stolen or unlawfully obtained, the value thereof exceeding 1,000 dollars, or 200*l.* sterling.

" 18.—(a.) Counterfeiting or altering money, or bringing into circulation counterfeited or altered money.

" (b.) Knowingly making, without lawful authority, any instrument, tool, or engine adapted and intended for the counterfeiting of the coin of the realm.

" (c.) Forgery, or uttering what is forged.

" 19. Crimes against bankruptcy law.

" 20. Any malicious act done with intent to endanger the safety of any person travelling or being upon a railway.

" 21. Malicious injury to property, if such offence be indictable.

" 22. Piracy and other crimes or offences committed at sea against persons or things which, according to the laws of the High Contracting Parties, are extradition offences, and are punishable by more than one year's imprisonment.

" 23. Dealing in slaves in such manner as to constitute a criminal offence against the laws of both States.

" The extradition is also to be granted for participation in any of the aforesaid crimes, provided such participation be punishable by the laws of both Contracting Parties.

" Extradition may also be granted at the discretion of the State applied to in respect of any other crime for which, according to the laws of both the Contracting Parties for the time being in force, the grant can be made.

" 16. Fraude cometido por un depositario, banquero, agente, comisionado, fideicomisario, director, miembro ó empleado publico de qualquiera Compania, siempre que sea considerado como crimen con pena no menor de un año por una ley que esté en vigor.

" 17. El obtener dinero, garantías de valor, ó mercaderías con pretextos falsos; recibir dinero, garantías de valor ó otros bienes, sabiendo que han sido robados ó habidos indebidamente, y excedido su valor de mil pesos ó 200*l.* (doscientas).

" 18.—(a.) Falsificacion ó alteracion de moneda, circulacion de moneda falsificada ó alterada.

" (b.) Fabricacion á sabiendas y sin autorizacion legal de cualquier instrumento, herramienta, ó aparato adaptado y destinado á la falsificacion de la moneda nacional.

" (c.) Falsificacion ó alteracion de firmas ó valores, ó circulacion de lo falsificado ó alterado.

" 19. Crímenes contra las leyes de bancarrota.

" 20. Cualquier acto hecho con intencion criminal, y que tenga por objeto poner en peligro la seguridad de una persona que se encuentre viajando en un ferrocarril, ó que se halle en él.

" 21. Daño hecho con intencion criminal á la propiedad, siempre que la ofensa sea procesable.

" 22. Pirateria, y otros crímenes ó delitos cometidos en el mar sobre las personas ó sobre las cosas, y que, segun las leyes respectivas de las dos Altas Partes Contratantes, sean delitos de extradicion y tengan mas de un año de pena.

" 23. Trata de esclavos, de manera tal que constituya una ofensa criminal contra las leyes de ambos Estados.

" Debe tambien concederse la extradicion por la participacion en cualesquiera de los precitados crímenes, siempre que esa participacion sea punible por las leyes de ambas Partes Contratantes.

" Puede tambien concederse la extradicion segun lo juzgue conveniente el Estado al que se hiciere el pedido con motivo de cualquier otro crimen que, segun las leyes que estén vigentes á la sazón, dé lugar á ella.

"ARTICLE III.

"Either Government reserves the right to refuse or grant the surrender of its own subjects or citizens to the other Government.

"ARTICULO III.

"Cada una de las dos Altas Partes Contratantes se reserva el derecho de negar ó conceder la entrega de sus propios súbditos ó ciudadanos.

"ARTICLE IV.

"The extradition shall not take place if the person claimed on the part of Her Majesty's Government, or the person claimed on the part of the Government of the Argentine Republic, has already been tried and discharged or punished, or is still under trial in the territory of the Argentine Republic or in the United Kingdom respectively, for the crime for which his extradition is demanded.

"If the person claimed on the part of Her Majesty's Government, or on the part of the Government of the Argentine Republic, should be under examination for any other crime in the territory of the Argentine Republic or in the United Kingdom respectively, his extradition shall be deferred until the conclusion of the trial and the full execution of any punishment awarded to him.

"ARTICULO IV.

"La extradición no tendrá lugar si el individuo reclamado por el Gobierno de Su Majestad, ó el individuo reclamado por el Gobierno de la República Argentina, ya hubiese sido enjuiciado y puesto en libertad ó castigado, ó continuará procesado en el territorio de la República Argentina ó en el Reino Unido respectivamente, por el crimen por el que se demande su extradición.

"Si el individuo reclamado por el Gobierno de Su Majestad, ó por el Gobierno de la República Argentina, estuviera detenido por cualquier otro crimen en el territorio de la República Argentina ó en el Reino Unido respectivamente, su extradición será aplazada hasta la terminación del juicio y la completa ejecución del castigo que le fué impuesto.

"ARTICLE V.

"The extradition shall not take place if, subsequently to the commission of the crime, or the institution of the penal prosecution or the conviction thereon, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the State applying or applied to.

"It shall likewise not take place when, according to the laws of either country, the maximum punishment for the offence is imprisonment for less than one year.

"ARTICULO V.

"La extradición no tendrá lugar si, despues de cometido el crimen ó de instituida la acusación criminal ó de condenado el reo, surgiera la prescripción, segun las leyes del Estado requeriente ó requerido.

"No tendrá igualmente lugar cuando, segun las leyes de cada país, la mas alta pena del delito sea menor de un año de prisión.

"ARTICLE VI.

"A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove that the requisition for his surrender has, in fact, been made with a view to try or punish him for an offence of a political character.

"ARTICULO VI.

"Un criminal fugado no será entregado si el delito por el cual se solicita su extradición es de carácter político, ó si dicho criminal probare que el pedido de extradición se ha hecho en realidad con la mira de enjuiciarlo ó castigarlo por un delito de carácter político.

"ARTICLE VII.

"A person surrendered can in no case be kept in prison or be brought to trial in the State to which the surrender has been made, for any other crime, or on account of any other matters, then those for which the extradition shall have taken place, until he has been restored, or has had an opportunity of returning to the State by which he has been surrendered. This stipulation does not apply to crimes committed after the extradition.

"ARTICLE VIII.

"The requisition for extradition shall be made through the Diplomatic Agents of the High Contracting Parties respectively.

"The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition, and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there.

"If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent Court of the State that makes the requisition for extradition.

"A sentence passed in *contumaciam* is not to be deemed a conviction, but a person so sentenced may be dealt with as an accused person.

"ARTICLE IX.

"If the requisition for extradition be in accordance with the foregoing stipulations, the competent authorities of the State applied to shall proceed to the arrest of the fugitive.

"ARTICLE X.

"A fugitive criminal may be apprehended under a warrant issued by any Police Magistrate, Justice of the Peace, or other competent authority in either country on such information or complaint, and such evidence, or

"ARTICULO VII.

"Un individuo entregado no puede en caso alguno ser detenido ni enjuiciado en el Estado al que se haga la entrega, por otro crimen ó por otros asuntos que no sean aquellos que hayan motivado la extradición, hasta tanto haya sido devuelto, ó haya tenido una oportunidad de regresar al Estado que lo entregare. Esta estipulación no se aplica á crímenes cometidos después de la extradición.

"ARTICULO VIII.

"La requisitoria de la extradición se hará por los Agentes Diplomáticos de las Altas Partes Contratantes respectivamente.

"La requisitoria para la extradición de un individuo acusado ha de ser acompañada de orden de prisión, dada por autoridad competente del Estado que requiera la extradición, y de aquellas pruebas que, según las leyes del lugar donde sea hallado el acusado, justificarian su prisión si el crimen hubiese sido cometido allí.

"Si la requisitoria se relaciona con persona ya condenada, deberá venir acompañada de la sentencia condenatoria dictada contra la persona condenada por el Tribunal competente del Estado que haga la requisitoria para la extradición.

"Una sentencia dictada en rebeldía no ha de reputarse condenatoria; pero á una persona así sentenciada puede tratarse como á persona acusada.

"ARTICULO IX.

"Si la requisitoria para la extradición está de acuerdo con las precedentes estipulaciones, las autoridades competentes del Estado requerido procederán á la prisión del fugitivo.

"ARTICULO X.

"Puede aprehenderse á un criminal fugitivo en virtud de un mandato de prisión, dictado por cualquier Jefe de Instrucción ó de Paz, ó otra autoridad competente en cualquiera de los dos países, mediante aquellas pruebas, informes

after such proceedings, as would, in the opinion of the authority issuing the warrant, justify the issue of a warrant if the crime had been committed or the person convicted in that part of the dominions of the two Contracting Parties in which the Magistrate, Justice of the Peace, or other competent authority exercises jurisdiction: provided, however, that in the United Kingdom the accused shall, in such case, be sent as speedily as possible before a Police Magistrate in London. He shall, in accordance with this Article, be discharged, as well in the Argentine Republic as in the United Kingdom, if within the term of thirty days a requisition for extradition shall not have been made by the Diplomatic Agent of his country in accordance with the stipulations of this Treaty. The same rule shall apply to the cases of persons accused or convicted of any of the crimes or offences specified in this Treaty, and committed on the high seas on board any vessel of either country which may come into a port of the other.

"ARTICLE XI.

"The extradition shall take place only if the evidence be found sufficient, according to the laws of the State applied to, either to justify the committal of the prisoner for trial, in case the crime had been committed in the territory of the same State, or to prove that the prisoner is the identical person convicted by the Courts of the State which makes the requisition, and that the crime of which he has been convicted is one in respect of which extradition could, at the time of such conviction, have been granted by the State applied to; and no criminal shall be surrendered until after the expiration of fifteen days from the date of his committal to prison to await the warrant for his surrender.

"ARTICLE XII.

"In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the State applied to shall admit as valid evidence the

ó denuncias, y aquellos procedimientos, que en la opinion de la autoridad que dé el mandato justificarian análogo mandato si el crimen se hubiera cometido ó la persona hubiera sido condenada en aquella parte de los dominios de las dos Partes Contratantes donde ejerza jurisdiccion el Juez de Instruccion ó de Paz, ú otra autoridad competente: bajo la condicion, sin embargo, que en el Reino Unido el acusado ha de ser remitido, en tal caso, á la mayor brevedad, á Londres, á disposicion de algun Juez de Instruccion. De conformidad con este Artículo, el acusado será puesto en libertad tanto en la República Argentina como en el Reino Unido, si dentro del plazo de treinta dias no hubiera hecho una requisitoria para la extradicion el Agente Diplomático de su pais de acuerdo con las estipulaciones de este Tratado. La misma regla se applicará á los casos de personas acusadas ó condenadas por cualquiera de los crímenes ó delitos especificados en el presente Tratado, y que se hubieran cometido en alta mar abordo de un buque de cualquiera de los dos paises que entrase en un puerto del otro.

"ARTICULO XI.

"Solo tendrá lugar la extradicion, en el caso de hallarse suficiente el testimonio, segun las leyes del pais requerido, ya sea para justificar el enjuiciamiento en el caso de que se hubiera cometido el crimen en el territorio del mismo Estado, ya sea para comprobar la identidad del preso como la persona condenada por los Tribunales del Estado que hace la requisitoria, y que el crimen por el que se le haya condenado es de aquellos con motivo de los cuales podria en la época de dicha condenacion, haberse concedido la extradicion por el Estado requerido; y ningun criminal será entregado hasta despues de pasados quince dias, contados, desde la fecha d su encarcelacion á esperar la órden para su entrega.

"ARTICULO XII.

"En los exámenes que deben practicar de conformidad con las precedentes estipulaciones, las autoridades del Estado requerido aceptarán como testimonio válido

sworn depositions or statements of witnesses taken in the other State, or copies thereof, and likewise the warrants and sentences issued therein, and certificates of, or judicial documents stating, the fact of a conviction, provided the same are authenticated as follows :—

“1. A warrant must purport to be signed by a Judge, Magistrate, or officer of the other State.

“2. Depositions, or affirmations, or the copies thereof, must purport to be certified under the hand of a Judge, Magistrate, or officer of the other State, to be the original depositions or affirmations, or to be true copies thereof, as the case may require.

“3. A certificate of or judicial document stating the fact of a conviction must purport to be certified by a Judge, Magistrate, or officer of the other State.

“4. In every case such warrant, deposition, affirmation, copy, certificate, or judicial document must be authenticated either by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of the other State; but any other mode of authentication for the time being permitted by the law of the country where the examination is taken, may be substituted for the foregoing.

“ARTICLE XIII.

“If the individual claimed by one of the High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers, on account of other crimes or offences committed upon their respective territories, his extradition shall be granted to that State whose demand is earliest in date.

“ARTICLE XIV.

“If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, or within such further time as the

las deposiciones juramentadas ó las declaraciones de testigos tomadas en el otro Estado, ó copia de ellas, y tambien las ordenes de prision y sentencias allí dictadas y certificados del hecho de una condena ó documentos judiciales que le declaren, con tal que esten autenticados como sigue :—

“1. Una orden de prision debe parecer firmada por algun Juez, Magistrado, ó empleado del otro Estado.

“2. Las deposiciones ó afirmaciones, ó las copias de estas, deben demostrar que certifican, mediante la firma de algun Juez, Magistrado, ó empleado del otro Estado, ser las deposiciones ó afirmaciones originales, ó copias fieles de ellas, segun lo requiera el caso.

“3. Un certificado del hecho de una condena ó documento judicial que la declare, debe demostrar que está otorgada por algun Juez, Magistrado, ó empleado del otro Estado.

“4. En todos los casos dicha órden, deposicion, afirmacion, copia, certificado, ó documento judicial debe autenticarse, ya sea mediante juramento de algun testigo, ya sea mediante el sello oficial del Ministro de Justicia, ó de algun otro Ministro del otro Estado; pero cualquiera otra manera de autenticar que esté permitida á la sazón por la ley del país donde se practique el exámen, puede sustituirse á las precedentes.

“ARTICULO XIII.

“Si el individuo reclamado por una de las Altas Partes Contratantes conforme al presente Tratado tambien lo fuere por otra ú otras Potencias con motivo de otros crímenes ó delitos cometidos en sus respectivos territorios, se concederá la extradicion al Estado cuya requisicion fuere de fecha mas antigua.

“ARTICULO XIV.

“Si no se exhibiera testimonio bastante para la extradicion dentro de los dos meses despues de la fecha en que se aprehendió al fugitivo, ó dentro del nuevo plazo

State applied to, or the proper Tribunal thereof shall direct, the fugitive shall be set at liberty.

que designe el Estado requerido ó el correspondiente Tribunal del mismo, el fugitivo será puesto en libertad.

"ARTICLE XV.

"All articles seized which were in the possession of the person to be surrendered at the time of his apprehension shall, if the competent authority of the State applied to for the extradition has ordered the delivery of such articles, be given up when the extradition takes place; and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof of the crime.

"ARTICULO XV.

"Todo objeto que esté en posesion del individuo que haya de entregarse y que se le tome al tiempo de aprehenderlo, será entregado al efectuarse la extradicion si la autoridad competente del Estado requerido para la extradicion ha ordenado la entrega de dichos objetos; y dicha entrega se hará extensiva no solo á los objetos robados, sino á cualquier otro que pueda servir de comprobante del crimen.

"ARTICLE XVI.

"All expenses connected with extradition shall be borne by the demanding State.

"ARTICULO XVI.

"Todos los gastos conexos á la extradicion estarán á cargo del Estado que la requiera.

"ARTICLE XVII.

"The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of Her Britannic Majesty, so far as the laws for the time being in force in such Colonies and foreign possessions respectively will allow.

"ARTICULO XVII.

"Las estipulaciones del presente Tratado se aplicarán á las Colonias y posesiones exteriores de Su Majestad Británica, en cuanto lo permitan las leyes que estén á la sazón en vigor en dichas Colonias y posesiones exteriores.

"The requisition for the surrender of a fugitive criminal who has taken refuge in any of such Colonies or foreign possessions shall be made to the Governor or chief authority of such Colony or possession by the Chief Consular officer of the Argentine Republic in such Colony or possession.

"La requisitoria para la entrega de un criminal fugitivo, refugiado en alguna de dichas Colonias ó posesiones exteriores, será hecha al Gobernador ó autoridad principal de dicha Colonia ó posesion por el Agente principal Consular de la República Argentina en dicha Colonia ó posesion.

"Such requisition may be disposed of, subject always, as nearly as may be, and so far as the law of such Colony or foreign possession will allow, to the provisions of this Treaty, by the said Governor or chief authority, who, however, shall be at liberty either to grant the surrender or to refer the matter to his Government.

"Conocerá de dicha requisitoria (sugetándose siempre, en cuanto le sea dado y en cuanto lo permitan las leyes de dicha Colonia ó posesion exterior, á las prescripciones de este Tratado) dicho Gobernador ó autoridad principal, el cual tendrá, sin embargo, la facultad ó bien de conceder la entrega ó de referir el asunto á su Gobierno.

"Her Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of Argentine criminals who may take refuge within such Colonies and foreign

"Su Majestad Británica tendrá, no obstante, la facultad de hacer arreglos especiales en las Colonias y posesiones exteriores Británicas para la entrega de criminales Argentinos que se refugien en dichas Colonias y posesiones ex-

possessions, on the basis, so far as the law of such Colony or foreign possession will allow, of the provisions of the present Treaty.

"Requisitions for the surrender of a fugitive criminal emanating from any Colony or foreign possession of Her Britannic Majesty shall be governed by the rules laid down in the preceding Articles of the present Treaty.

"ARTICLE XVIII.

"The present Treaty shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties by a notice not exceeding one year, and not less than six months.

"The Treaty, after receiving the approval of the Congress of the Argentine Republic, shall be ratified, and the ratifications shall be exchanged at Buenos Ayres as soon as possible.

"In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

"Done at Buenos Ayres, on the twenty-second day of May, one thousand eight hundred and eighty-nine.

teriores, sobre la base, en cuanto lo permita la ley de dicha Colonia ó posesion exterior, de las estipulaciones del presente Tratado.

"Las requisitorias para la entrega de un criminal fugitivo que emanen de alguna Colonia ó posesion exterior de Su Majestad Britanica serán regidas por las reglas sentadas en los precedentes Artículos del presente Tratado.

"ARTICULO XVIII.

"El presente Tratado entrará en vigor diez dias de publicado conforme á las formas prescritas por las leyes de las Altas Partes Contratantes.

"Podrá darlo por terminado cualquiera de las Altas Partes Contratantes, previo aviso que no pase de un año y no baje de seis meses.

"El Tratado, despues de aprobado por el Congreso de la República Argentina, será ratificado, y las ratificaciones serán canjeadas en Buenos Aires á la posible brevedad.

"En fé de lo cual los respectivos Plenipotenciarios lo han firmado, y le han puesto el sello de sus armas.

"Hecho en Buenos Aires, á los veintidos dias del mes de Mayo de mil ocho cientos ochento y nueve.

(L.S.)	G. Jenner.
(L.S.)	N. Quirino Costa."

And whereas the ratifications of the said Treaty were exchanged at Buenos Ayres on the fifteenth day of December, one thousand eight hundred and ninety-three:

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and in virtue of the authority committed to Her by the said recited Acts, doth order, and it is hereby ordered, that from and after the ninth day of February, one thousand eight hundred and ninety-four, the said Acts shall apply in the case of the Argentine Republic, and of the said Treaty with the Argentine Republic.

Provided always, and it is hereby further ordered, that the operation of the said Extradition Acts, 1870* and 1873†, shall be suspended within the dominion of Canada so far as relates to the Argentine Republic, and to the said Treaty, and so long as the provisions of the Canadian Act aforesaid of 1886 continue in force, and no longer.

G. L. Peel.

* 33 & 34 Vict. c. 52.

† 36 & 37 Vict. c. 60.

‡ "The Extradition Act" (Revised Statutes of Canada, c. 142).

(b) Austria-Hungary.

At the Court at Windsor, the 17th day of March, 1874.

PRESENT :

The Queen's Most Excellent Majesty in Council.

Whereas by an Act of Parliament made and passed in the Session of Parliament holden in the thirty-third and thirty-fourth years of the reign of Her present Majesty, intituled "An Act for amending the law relating to the Extradition of Criminals,"* it was amongst other things enacted, that where an arrangement has been made with any foreign State, with respect to the surrender to such State of any fugitive criminals, Her Majesty may, by Order in Council, direct that the said Act shall apply in the case of such foreign State; and that Her Majesty may, by the same or any subsequent Order, limit the operation of the Order, and restrict the same to fugitive criminals who are in or suspected of being in the part of Her Majesty's dominions specified in the Order, and render the operation thereof subject to such conditions, exceptions, and qualifications as may be deemed expedient :

And whereas a Treaty was concluded on the third day of December last between Her Majesty and the Emperor of Austria, King of Bohemia, &c., &c., and Apostolic King of Hungary, for the Mutual Extradition of Fugitive Criminals, which Treaty is in the terms following :—

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Majesty the Emperor of Austria, King of Bohemia, &c., &c., and Apostolic King of Hungary, having judged it expedient, with a view to the better administration of justice and to the prevention of crime within the two countries and their jurisdictions that persons charged with or convicted of the crimes hereinafter enumerated, and being fugitives from justice, should under certain circumstances, be reciprocally delivered up; Their said Majesties have named as their Plenipotentiaries to conclude a Treaty for this purpose, that is to say :

Nachdem Ihre Majestät die Königin des Vereinigten Königreiches von Grossbritannien und Irland, und Seine Majestät der Kaiser von Oesterreich König von Böhmen U. S. W. und Apostolischer König von Ungarn behufs besserer Verwaltung der Rechtspflege und zur Verhütung von Verbrechen innerhalb der beiden Reiche und deren Gerichtsbarkeiten es für zweckmässig befunden haben, dass Personen, welche der in diesem Vertrage aufgeführten/strafbaren Handlungen beschuldigt oder wegen solcher Handlungen verurtheilt und vor der Justiz flüchtig geworden sind, unter bestimmten Umständen gegenseitig ausgeliefert werden sollen; so haben Ihre eben gedachten Majestäten behufs Abschlusses eines solchen Vertrages zu Ihren Bevollmächtigten ernannt nämlich :

O Felsege Nagybritannia és Irhon egyesült Királyságának Királynéja és O Felsege Ausztria császára, Csehország királya s. a. t., és Magyarországról apostoli Királya az igazságszolgáltatás jobb kezelése, és államaik valamint ezek hatóságának területén, a büntettek elkövetésének megakadályozása végett ezélszerűnek látván, hogy oly személyek, a kik az ezen szerződésben elősorolt valamely büntetendő cselekmény elkövetésével vádolottnak, vagy amiatt elítéltek, és az igazság kiszolgáltatása elől megszöktek határozott körülmények közt kölcsönösen kiadassanak; ezen célból a most említett Felsegek erre vonatkozó szerződés megkötésére teljesítamozottakul kineveztek, — névszerint :

* The Extradition Act, 1870 (23 & 24 Vict. c. 50).

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honourable Sir Andrew Buchanan, a member of Her Majesty's Most Honourable Privy Council, Knight Grand Cross of the Most Honourable Order of the Bath, Her Majesty's Ambassador Extraordinary and Plenipotentiary to His Imperial and Royal Apostolic Majesty;

And His Imperial and Royal Apostolic Majesty the Count Julius Andrássy of Csik-Szent-Király and Kraszna Horka, His Imperial and Royal Majesty's Privy Councillor, Minister of the Imperial House and of Foreign Affairs, Grand Cross of the Order of St. Stephen, &c.;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles:

Article I.

The High Contracting Parties engage to deliver up to each other those persons who, being accused or convicted of a crime committed in the territory of the one Party, shall be found within the territory of the other Party under the circumstances and conditions stated in the present Treaty.

Article II.

The crimes for which the extradition is to be granted are the following:

1. Murder, or attempt to murder.

2. Manslaughter.

3. Counterfeiting or altering money, uttering or bringing into circulation counterfeit or altered money.

4. Forgery or counterfeiting, or altering or uttering what is forged or counterfeited or altered; comprehending the crimes designated in the Austrian Penal Laws or in the Hungarian Penal Laws and Customs as counterfeiting or falsification of paper money, bank notes, or other securities, forgery or falsification of other public or private documents, likewise the uttering or bringing into circulation, or wilfully using such counterfeited, forged, or falsified papers.

The definition is to be determined accordingly with the Austrian Penal Laws if the extradition shall take place from Austria, and accordingly with the Hungarian Penal Laws and Customs if the extradition shall take place from Hungary.

5. Embezzlement or larceny.

6. Obtaining money or goods by false pretences.

7. Crimes against bankruptcy law: comprehending the crimes considered as frauds committed by the bankrupt in connexion with the bankruptcy, according with the Austrian Penal Laws if the extra-

Thre Majestät die Königin des Vereinigten Königreichs von Grossbritannien und Irland den Sehr Ehrenwerthen Sir Andrew Buchanan, Mitglied Ihrer Majestät Höchstehrerwerthen Geheimen Rathes, Grosskreuz des Höchstehrerwerthen Bath - Ordens, Allerhöchstihren ausserordentlichen und bevollmächtigten Botschafter bei Seiner kaiserlichen und königlich apostolischen Majestät;

Und Seine Kaiserliche und Königlich Apostolische Majestät, den Herrn Julius Grafen Andrássy von Csik - Szent - Király und Kraszna Horka, Allerhöchstihren wirklichen geheimen Rath, Minister des Kaiserlichen Hauses und des Aeusseren, Grosskreuz des St. Stefan-Ordens, etc.;

Welche, nachdem sie sich gegenseitig ihre Vollmachten mitgetheilt und dieselben in guter und gehöriger Form befunden, die folgenden Artikel vereinbart und abgeschlossen haben —

Artikel I.

Die hohen vertragschliessenden Theile verpflichten sich einander diejenigen Personen auszuliefern, welche wegen eines, auf dem Gebiete des einen Theiles begangenen strafbaren Handlung beschuldigt oder verurtheilt sind und in dem Gebiete des anderen Theiles aufgefunden werden, sofern die in dem gegenwärtigen Vertrage angegebenen Fälle und Voraussetzungen vorhanden sind.

Artikel II.

Die strafbaren Handlungen, wegen deren die Auslieferung zu gewähren ist, sind folgende:—

(1.) Mord, Mordversuch.

(2.) Todtschlag.

(3.) Nachmachen oder Verfälschen von Metallgeld, Veräussigung oder Inverkehrbringen nachgemachten oder verfälschten Metallgeldes.

(4.) Fälschen oder nachmachen oder Verändern, oder Inverkehrbringen von Gefälschtem oder Nachgemachtem oder Verändertem umfassend alle Verbrechen, welche nach den österreichischen Strafgesetzen oder nach den ungarischen Strafgesetzen und Gewohnheiten als Nachmachen oder Verfälschen von Papiergeld, Banknoten oder anderen Werthpapieren, Nachmachung oder Verfälschung anderer öffentlichen oder Privat-Urkunden, imgleichen Veräussigung oder Inverkehrbringen oder wissentliches Gebrauchen solcher nachgemachten oder gefälschten Papiere bezeichnet sind. Der Begriff ist nach den österreichischen Strafgesetzen festzustellen, wenn die Auslieferung aus Oesterreich erfolgen soll, und nach ungarischen Strafgesetzen und Gewohnheiten wenn die Auslieferung aus Ungarn erfolgen soll.

(5.) Diebstahl und Unterschlagung (Veruntreuung).

(6.) Erlangung von Geld oder andern Sachen durch falsche Vorspiegelungen (Betrug).

(7.) Betrügerischer Bankrott, umfassend die Verbrechen, welche, wenn die Auslieferung aus Oesterreich Platz greifen soll, nach den österreichischen Strafgesetzen, und wenn die Auslieferung aus Ungarn

Ö Felsége Nagybritanniá és a hind egyetértő Királyságok Királyja: Igen tisztelt Sir Andrew Buchanan, Ő Felsége nagyon tisztelt tanácsának tagját, a nagyon tisztelt Bathrend nagykirázszt, Ő császári és apostoli királyi Felség udvaránál rendkívüli és meghatalmasott nagykövett; és

Ő császári és apostoli királyi Felsége:

Csikszentkirályi és krasznahorkai Gróf Andrássy Gyula urat, valóságos belső titkos tanácsost, és utaltatás és a külügyek miniszert, a Szt. István rend nagykirázszt vezetés, s. a. t.

A kik, mintán teljes hatalmukat egymással közhét: minden azokat helyeseknek a helyes kiállítottaknak találják, és a következő büntetendő cselekmények elkövetése miatt elítéltek: a másik félnek államterületén létezőnek.

I. Cikk.

Kötelezik magukat a magasabb fokok, hogy az ezen szerződésben meghatározott esetekben a bűntettek alatt egymással közhét: minden azokat helyeseknek a helyes kiállítottaknak találják, és a következő büntetendő cselekmények elkövetése miatt elítéltek: a másik félnek államterületén létezőnek.

II. Cikk.

Azon büntetendő cselekmények, melyek miatt a kiadás engedélyezendő, a következők:

1.) Gyilkosság, a gyilkosság kísérlete.

2.) Emberölés.

3.) Hamis fémpénz készítése vagy valódi fémpénznek megváltoztatása, hamis vagy hamisított fémpénz kiadása vagy forgalomba hozatala.

4.) Hamisítás, utánzás vagy megváltoztatás, vagy a hamisított, elcsúszott, vagy megváltoztatott tárgyak forgalomba hozatala, a mielőtt még mindazon büntetést, mely az ausztriai büntető törvények vagy pedig a magyar büntető törvények és gyakorlatok szerint a papírpénz vagy bankjegy vagy más értékpapír utánzásának vagy megváltoztatásának, úgyiszerint másnak, ha közvény magán okiratok készítésének, vagy a valódiak megváltoztatásának, hasonlóképpen ily utánzás, hamis, vagy hamisított okiratok szándékos használatának a forgalombahozatalának büntetését képezi.

Ezen büntetett létezés a mennyiben a kiadás Ausztriából történik, az ausztriai büntető törvénykönyv, a mennyiben pedig Magyarországból kívántatnak, a Magyarországi büntető törvénykönyv és gyakorlat szerint állapítandó.

5.) Lopás és sikkasztás.

6.) Péntek vagy egyéb dolgot, akár alkalmi ártások (csalás) által szerzés.

7.) Csőlérd bukás, mely magában foglalja azon cselekményeket, melyek, ha a kiadás Ausztriából kívántatnak, az ausztriai büntető törvénykönyv szerint csőlérd, és pedig Magyarországból kívántatnak.

tion shall take place from Austria, and with the Hungarian Penal law if the extradition shall take place from Hungary.

8. Fraud by a bailee, banker, post, factor, trustee, or director or partner or public officer of any company, made criminal by any law for the time being in force.

9. Rape.

10. Abduction.

11. Child stealing, kidnapping, and like imprisonment.

12. Burglary or housebreaking.

13. Arson.

14. Robbery with violence or with weapons.

15. Threats by letter or otherwise with intent to extort.

16. Sinking or destroying a vessel at sea, or attempting to do so.

17. Assaults on board a ship on the high seas, with intent to destroy life, or to do grievous bodily harm.

18. Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas, against the authority of the master.

19. Perjury or subornation of perjury.

20. Malicious injury to property, if the offence be indictable.

The extradition is also to take place for participation in any of the aforesaid crimes, as accessory either before or after the fact, provided such participation be punishable by the laws of both the Contracting Parties.

In all these cases the extradition will only take place from the Austro-Hungarian States when the crimes, if committed in Austria, would, according to Austrian law, constitute a "Verbrechen," or, if committed in Hungary, would, according to the laws and customs being in force in Hungary, constitute a crime ("bűntett"); the extradition from Great Britain only when the crimes, if committed in England, or within English jurisdiction, would constitute an extradition crime, as described in the Extradition Acts of 1870 and 1873.

Article III.

In no case and on no grounds whatever shall the High Contracting Parties be held to concede the extradition of their own subjects.

Platz greifen soll, nach den ungarischen Strafgesetzen als ein, von dem Gemeinschuldner in Zusammenhänge mit dem Barkerott verübter Betrug anzusehen sind.

(8.) Untreue Seitens eines Verwalters und Beauftragten, Banquiers, Agenten, Prokuristen, Vorstandes oder Curators, Vorstandes, Mitgliedes oder Beamten irgend einer Gesellschaft, soweit diese Untreue nach den bestehenden Gesetzen mit Strafe bedroht ist.

(9.) Nothzucht.

(10.) Entführung.

(11.) Kinderraub, Menschenraub, unbefugte Einschränkung der persönlichen Freiheit eines Menschen.

(12.) Einbrechen und Eindringen in ein Wohnhaus oder dazu gehöriges Nebengebäude mit der Absicht, ein Verbrechen zu begehen, zur Tageszeit (housebreaking) oder Nachtzeit (burglary).

(13.) Vorsätzliche Brandstiftung (Brandlegung).

(14.) Raub mit Anwendung von Gewaltthätigkeiten oder Drohungen.

(15.) Erpressungen.

(16.) Vorsätzliche Versenkung oder Zerstörung eines Schiffes zur See, oder Versuch dieses Verbrechens.

(17.) Angriffe auf Personen an Bord eines Schiffes auf hoher See in der Absicht zu tödten oder eine schwere Körperverletzung zu verüben.

(18.) Widerstand mit Thätlichkeiten ("revolt") gegen den Schiffsführer an Bord eines Schiffes auf hoher See, wenn dieser von zwei oder mehreren Personen verübt wird, oder Verschwörung zu einem solchen Widerstande.

(19.) Falsche eidliche Aussage, Verletzung zu derselben.

(20.) Boshafte Beschädigung fremden Eigenthums, insofern sie nicht blos als Uebertretung strafbar ist.

Die Auslieferung findet auch wegen Bethheiligung an einer der vorbeschriebenen strafbaren Handlungen statt, ohne Unterschied, ob die Bethheiligung vor oder nach der That erfolgte, jedoch nur unter der Voraussetzung, dass sie nach den Gesetzen beider Vertragschliessenden Theile als Verbrechen strafbar sei.

In allen diesen Fällen findet die Auslieferung aus den oesterreich-ungarischen Staaten nur dann statt wenn die strafbaren Handlungen, falls sie in Oesterreich begangen worden wären, nach dem oesterreichischen Gesetze ein Verbrechen begründen, oder falls sie in Ungarn begangen worden wären, nach den in Ungarn in Geltung stehenden Gesetzen und Gewohnheiten ein Verbrechen (bűntett) begründen, die Auslieferung aus Großbritannien aber nur dann, wenn die strafbare Handlung, falls sie in England oder innerhalb der Englischen Jurisdiktion begangen worden wäre, ein Auslieferungsverbrechen im Sinne der Extraditions akte von 1870 und 1873 begründen würde.

Artikel III.

In keinem Falle und aus keinem Grunde sollen die hohen vertragsschliessenden Theile gehalten sein, die Auslieferung der eigenen Unterthanen auszusprechen.

a kiadás, a magyar törvények szerint hamissággal, pársult bukást képeznek.

8.) Keselők, megbízottak, bankárok, ügyvivők, cégvezetők, nyamo gondnokok társulati előjárók, tagok, vagy hivatalnokok által elkövetett hűtlen eljárás, amennyiben ezen hűtlenesség a fennálló törvények szerint büntetendő cselekményt képes.

9.) Erőszakos nemi közörlés.

10.) Elragadás.

11.) Gyermekrablás, emberrablás és törvénytelen letartóztatás.

12.) Lakhába vagy ahhoz tartozó melléképületbe, büntett elkövetőnek szándékával való betörés vagy behatolás akár nappal ("house-breaking") akár éjjel idején ("burglary").

13.) Szándékos gyújtogatás.

14.) Rablás, erőszak vagy fenyegetés alkalmassával.

15.) Zsarolás.

16.) A tengeren levő hajónak szándékos elüllyesztése vagy elpusztítása, ezen büntett elkövetőnek kísérlete.

17.) Nyílt tengeren levő hajón léteső személyeknek megtámadása, ölési vagy súlyos testi sértési szándékkal.

18.) Tettesseggel járó ellenségesítés ("revolt") a nyílt tengeren levő hajónak vezetője ellen, ha két vagy több személy által követettik el, úgyintén ily ellenségesítésre való sóvételre.

19.) Hamis eskü, és hamis esküre eskütétel.

20.) Idegen tulajdon gonosz akaratú megsértése, mennyiben mint büntett üldöztendő.

Az elősorolt büntetendő cselekményekben tett előtti vagy utáni részesesség miatt, a kiadásnak szintén van helye, ha a részesesre mindkét szerződő fél törvényei büntetést állapítanak meg.

Mindezen esetekben a kiadásnak az oestrákmagyar államokból csak azon föltétel alatt lesz helye, ha a büntettek, mennyiben Ausztriában követték el, az ausztriai büntető törvénykönyv szerint, ha pedig Magyarországon követték volna el, a Magyarországon hatályban levő törvények és gyakorlat szerint büntetett képeznek. Nagybritanniából azonban a kiadásnak csak azon föltétel alatt lesz helye, ha a büntettek, a mennyiben azok Angolországon vagy az angol hatóság területén követték volna el, az 1870^a és 1873^a évi kiadási törvény értelmében kiadási büntetett képeznek.

III. Cikk.

A magas szerződőtelek soha és semmi eszt sem kötelestetnek, saját állatvalók kiadásának engedélyezésére.

Article IV.

The extradition shall not take place if the person claimed on the part of the Government of the United Kingdom, or the person claimed on the part of the Government of Austria-Hungary, has already been tried and discharged or punished, or is still under trial, in the Austro-Hungarian dominions, or in the United Kingdom respectively, for the crime for which his extradition is demanded.

If the person claimed on the part of the Government of the United Kingdom, or if the person claimed on the part of the Government of Austria-Hungary, should be under examination for any other crime in the Austro-Hungarian dominions, or in the United Kingdom respectively, his extradition shall be deferred until the conclusion of the trial, and the full execution of any punishment awarded to him.

Should an individual whose extradition is demanded be at litigation, or be detained in the country on account of private obligations, his surrender shall nevertheless be made, the injured party retaining the right to prosecute his claims before the competent authority.

Article V.

The extradition shall not take place if, with respect to the crime for which it is demanded, and according to the laws of the country, applied to, criminal prosecution and punishment has lapsed.

Article VI.

A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove that the requisition for his surrender has, in fact, been made with a view to try or punish him for an offence of a political character.

Article VII.

If an individual whose extradition is demanded by either of the High Contracting Parties, in accordance with the terms of this Treaty, be also claimed by one or several other Powers on account of other crimes committed on their territory, he shall be surrendered to the Government in whose territory his gravest crime was committed; and if his crimes are all of the same gravity, or a doubt exists as to which is the gravest, to the Government which first made application for his surrender.

Article VIII.

A surrendered person shall in no case be kept in arrest or subjected to examination in the State to which he has been surrendered on account of another previous crime, or any

Article IV.

Die Auslieferung soll nicht stattfinden: wenn die Person, deren Auslieferung aus Oesterreich-Ungarn verlangt wird, in einem der Länder der Oesterreichisch-ungarischen Monarchie, oder die Person, deren Auslieferung aus Grossbritannien verlangt wird, im vereinigten Königreiche, wegen derselben strafbaren Handlung, wegen deren die Auslieferung beantragt wird, in Untersuchung gewesen und ausser Verfolgung, gesetzt worden, oder sich noch in Untersuchung befindet, oder bereits bestraft worden ist.

Wenn die Person deren Auslieferung begehrt wird, in dem Staatsgebiete, wo sie sich befindet, wegen eines anderen strafbaren Handlung in Untersuchung, oder Strafe ist, so soll ihre Auslieferung bis zur Beendigung dieser Untersuchung und vollendeter Vollstreckung der etwa gegen sie erkannten Strafe aufgeschoben werden.

Sollte ein Individuum dessen Auslieferung begehrt wird, wegen privatrechtlicher Verpflichtungen in Prozess stehen oder zurückgehalten werden, so soll dessen Auslieferung nichtsdestoweniger stattfinden: die verletzte Person behält jedoch das Recht ihre Ansprüche vor der zuständigen Behörde zu verfolgen.

Article V.

Die Auslieferung soll nicht stattfinden, wenn in Betreff des Verbrechens, wegen dessen die Auslieferung begehrt wird, nach den Gesetzen des um die Auslieferung angegangenen Staates, die Strafverfolgung oder die Strafvollstreckung durch Verjährung erloschen ist.

Article VI.

Ein flüchtiger Verbrecher soll nicht ausgeliefert werden, wenn die strafbare Handlung, wegen deren seine Auslieferung begehrt wird, einen politischen Charakter an sich trägt, oder wenn er darthut, dass der Antrag auf seine Auslieferung in Wirklichkeit mit der Absicht gestellt worden ist, ihn wegen eines Verbrechens oder Vergehens politischer Natur zu verfolgen oder zu bestrafen.

Article VII.

Wenn ein Individuum dessen Auslieferung in Gemässheit dieses Vertrages von einer der beiden Vertragsmächte begehrt wird, noch von einer oder mehreren anderen Mächten wegen anderer Verbrechen, die in deren Gebiete begangen wurden, reklamirt wird, so ist dasselbe der Regierung, in deren Gebiete die schwerere Gesetzesübertretung begangen wurde, und wenn die von ihm verübten strafbaren Handlungen gleich schwer wären, oder wenn es zweifelhaft bleibe, welche die schwerere sei, derjenigen Regierung auszuliefern, welche zuerst das Bruchsen um die Auslieferung gestellt hat.

Article VIII.

Die ausgelieferte Person darf in dem Staate an welchen die Auslieferung erfolgt ist, keinesfalls wegen einer anderen früher begangenen strafbaren Handlung, oder auf

IV. Cikk.

Nincs helye a kiadatásnak, ha azon személy, a kinek Auslieferung Magyarországról való kiadatása kívántatik, az osztrák-magyar monarchia valamelyik országában, vagy pedig azon személy, a kinek kiadatása Nagybritanniáról kívántatik, az egyesült királyságban, ugyanazon büntetendő cselekmény miatt, mely miatt kiadatása kívántatik, vizsgálat alatt állott, és azon eljárás meg lett szüntetve, vagy a illető egyén még vizsgálat alatt áll, vagy már megbüntetve lett.

Ha a személy, a kinek kiadatása kívántatik, azon államterületen, a melyen tartózkodik, valamely más büntetendő cselekmény miatt vizsgálat vagy büntetés alatt áll, eme esetben kiadatása azon időre halasztandó, midőn először a vizsgálat befejeztetett, vagy midőn büntetés kiállott.

Ha az egyén, a kinek kiadatása kértetik, magánjogi kötelezettségek miatt perben állna, vagy visszatartatnék, kiadatása ennek ellenére is eszközölendő, fennmaradván a sértett félnek abbéli joga, hogy kártérítést az illetékes hatóság előtt érvényesítse.

V. Cikk.

A kiadatás nem eszközölendő, ha azon büntetendő cselekmény neve, mely miatt a kiadatás kívántatik, az erre megkötött állam törvényei szerint a bünyádi eljárás elővétele folytán nem indítható meg, vagy a büntetés ugyanazon abból nem hajtható végre.

VI. Cikk.

A menekült bűntettos nem adandó ki, ha a büntetendő cselekmény, mely miatt kiadatása kívántatik, politikai jelleggel bír, vagy ha igazolást ad, hogy kiadatása valamely politikai természetű bűntettos vagy véttség miatti elűzetés vagy megbüntetés céljából kívántatik.

VII. Cikk.

Ha azoni egyén, kinek kiadatása a szerződőfelek egyike által a jelen szerződés értelmében kívántatik, egy vagy több más állam által, az ezek területén elkövetett más bűntettek miatt szintén kiadatni kívántatik, ez esetben az azon kormány, a melynek területén a súlyosb törvényesség követe el, ha pedig az általa elkövetett büntetendő cselekmények súlyossága között nem lenne különbség vagy végre, ha kétsz kéne, hogy melyik a súlyosabb büntetendő cselekmény, azon kormány, a melynek adandó ki, mely legelőbb intézte a kiadatást megkeresést.

VIII. Cikk.

A kiadott személyt azon államban melynek kiadották, a kiadást megelőző időben elkövetett más büntetendő cselekmény miatt, vagy más tények alapján, mint azok, a melyek

other grounds than those of his surrender, unless such person has, after his surrender, had an opportunity of returning to the country whence he was surrendered, and has not made use of this opportunity, or unless he, after having returned there, reappears in the country to which he has already been surrendered.

This stipulation does not refer to crimes committed after surrender.

Article IX.

Requisitions for surrender shall be made by the Diplomatic Agents of the High Contracting Parties.

To the requisition for the surrender of an accused person there must be attached a warrant issued by the competent authorities of the State which demands extradition, and such proofs as would, according to the laws of the place where the accused was found, justify his arrest if the crime had been committed there.

If the requisition refers to a person already convicted, the sentence passed by the competent Tribunal of State demanding his surrender must be produced.

No requisition for surrender can be based on a conviction *in contumaciam*.

Article X.

If the requisition for extradition be in accordance with the foregoing stipulations, the competent authorities of the State applied to shall proceed to the arrest of the fugitive. The prisoner is then to be brought before a competent Magistrate, who is to examine him and to conduct the preliminary investigation of the case, just as if the apprehension had taken place for a crime committed in the same country.

Article XI.*

A fugitive criminal may, however, in urgent cases be arrested under a warrant of a Police Magistrate, Judge of the Peace, or of any other competent authority in either country, on such information or complaint, or such evidence as would, in the opinion of the person issuing the warrant, justify the issue of a warrant if the crime had been committed or the prisoner convicted in the district in which the authority happens to be; provided, however, that he shall be discharged, if within the shortest time possible, and at the utmost within *fourteen days*, a requisition for his surrender in accordance with the terms of Article IX. of the Treaty is not made by the Diplomatic Agent of the State which demands his extradition.

Grund anderer Thatachen als derjenigen, wegen deren die Auslieferung erfolgt ist, in Haft gehalten oder zur Untersuchung gezogen werden, es wäre denn, dass sie nach der Auslieferung Gelegenheit gehabt hätte, in das Land zurückzukehren, aus welchem sie ausgeliefert wurde, und diese Gelegenheit nicht benützt hätte, oder dass sie, nachdem sie dahin zurück, gekehrt war, freiwillig in dem Land wieder erschienen wäre, an das sie schon einmal ausgeliefert wurde.

Auf strafbare Handlungen, welche nach erfolgter Auslieferung verübt sind, findet diese Bestimmung keine Anwendung.

Artikel IX.

Die Anträge auf Auslieferung sollen durch die diplomatischen Agenten der hohen vertragenden Theile gestellt werden.

Mit dem Antrage auf Auslieferung eines Beschuldigten müssen ein Haftbefehl, welcher von der zuständigen Behörde des die Auslieferung begehrenden Staates erlassen ist, und solche Beweise beigebracht werden, welche nach den Gesetzen des Ortes, wo der Beschuldigte aufgefunden wird, dessen Verhaftung rechtfertigen würden, wenn die strafbare Handlung dort begangen wäre. Betrifft der Antrag eine bereits verurtheilte Person, so muss das Strafurtheil beigebracht werden, welches von dem zuständigen Gericht des die Auslieferung begehrenden Staates gegen den Verurtheilten erlassen ist.

Auf Strafurtheile welche auf Ausbleiben des Beschuldigten (*in contumaciam*) erlassen sind, kann der Auslieferungsantrag nicht gegründet werden.

Artikel X.

Wenn das Auslieferungsbegehren nach dem vorstehenden Bestimmungen begründet ist, so sollen die zuständigen Behörden des ersuchten Staates zur Festnahme des Flüchtlings schreiten.

Der Ergreifene wird sodann vor den dazu gesetzlich berufenen richterlichen Beamten gebracht, welcher ihn ebenso zu verhören und den Strafall verläufig zu untersuchen hat, als wenn die Ergreifung wegen einer im Inlande begangenen strafbaren Handlung erfolgt wäre.

Artikel XI.*

Ein flüchtiger Verbrecher kann ausserdem in dringenden Fällen in Folge eines Verhaftbefehles eines Polizeirichters, eines Friedensrichters, oder einer anderen in jedem der beiden Staaten hiesu berufenen Behörde, auf Grund solcher Anzeigen oder Beschwerden und solcher Nachweisungen oder nach solchen Erhebungen verhaftet werden welche nach dem Dafürhalten der Person, welche den Verhaftbefehl ausstellt, die Ausfertigung eines Verhaftbefehles rechtfertigen würden wenn die Verübung der That oder die Verurtheilung des Gefangenen in dem Gebiete, in welchem sich diese Obrigkeit befindet, erfolgt wäre.

Vorausgesetzt wird übrigens, dass in der kürzesten Frist und zwar längstens binnen *14 Tagen* bei sonstiger Entlassung des Verhafteten, durch den diplomatischen

niacht kladott, semmi szin alatt sem tartható fogásban, vagy vonatkozó vizsgálat alá, kivéve, ha kiadása után alkalma volt azon országba visszatérni, a melyből kiadott, és ezen alkalmat nem használta fel, vagy ha visszatért ugyan, de nöként ismét azon országba ment, a melynek egyssér már kiadva lett.

A kiadás után elkövetett büntetendő cselekményekre ezen határozat nem alkalmazható.

IX. Cikk.

A kiadás iránti megkérések a magas szerződőfelek diplomatiai ügynökei által terjesztendők elő.

A kiadás iránti megkérésekkel előterjesztendők a kiadást asorgalmazó állam illetékes hatósága által kibocsátott elfogatási parancs, és oly bizonyítékok, melyek, ha a büntetendő cselekmény ott követett volna el, a hol a vádlott feltaláltatik, ezen helynek törvényei szerinti vádlottnak elfogatását igazolnák.

Ha a kiadás iránti megkérés már elítelt személyre vonatkozik: előterjesztendő a kiadást asorgalmazó állam illetékes bírósága által az elítelt ellen hozott büntető ítélet. A kiadás iránti megkérés vádlott meg nem jelenése folytán hozott ítéletre (*in contumaciam*) nem alapítható.

X. Cikk.

Ha a kiadás iránti megkérés, a fentebbi határozványok értelmében alapos, a megkérészt állam illetékes hatósággal kötelesek, a szükséges letartóztatás iránt intézkedni.

Ezután a letartóztatást egyen az illetékes bíró elő vesztetik, ki akképen köteles elő kihallgatni, és az eset előzetes vizsgálata teljesíteni, mintha az elfogatás befolydott elkövetett büntetendő cselekmény miatt történt volna.

XI. Cikk.*

A menekült bűntettes asonfélt sürgős esetekben elfogható rendőrbíró bekebíró, vagy a szerződő államok bármelyikében erre illetékes más hatóság által, oly feljelentések, panaszok, bizonyítékok alapján, vagy oly nyomozások után kibocsátott elfogatási parancsra, melyek az elfogatási parancsot kibocsátó személynek véleménye szerint, a menekültnek elfogatását azon esetben indokolnak, ha a cselekmény azon helyen követett volna el, vagy az ítélet ott hozott volna, a hol esem felsőbbre létes.

Feltételeztetik azonban, hogy a kiadás iránti megkérés a megkérés állam diplomatiai képviselője által, az esem szerződő IX. cikkének megfelelő módon, a legrövidebb

* This Article is amended by Declaration of June 26, 1901, printed at p. 19 below, by the substitution of "one month" for "fourteen days."

Vertreter des um die Auslieferung ersuchenden Staates, eine Requisition wegen der Auslieferung in der dem Artikel IX dieses Vertrages entsprechenden Weise erhoben wird.

Article XII.

The extradition shall not take place before the expiration of fifteen days from the apprehension, and then only if the evidence be found sufficient, according to the laws of the State applied to, either to justify the committal of the prisoner for trial, in case the crime had been committed in the territory of the said State, or to prove that the prisoner is the identical person convicted by the Courts of the State which makes the requisition.

Artikel XII.

Die Auslieferung erfolgt nicht vor Ablauf von fünfzehn Tagen seit der Ergreifung und nur dann, wenn die Beweise für genügend befunden worden sind, um nach dem Gesetze des ersuchten Staates entweder die Verweisung des Ergriffenen zur Hauptuntersuchung zu rechtfertigen, falls die strafbare Handlung im Gebiete dieses Staates begangen wäre, oder darzuthun, dass der Ergriffene mit der von den Gerichten des ersuchenden Staates verurtheilten Person identische ist.

XII. Csikk.

A kiadás csak az elfogadás után 15 nap lejártával és csak az esetben eszközölhető, ha a bizonyítékok elegendőnek találhatók arra, hogy az elfogott elleni fozvizsgálatnak eredménye, ha a bűntettendő cselekmény a megkeresett állam területén követett volna el, ezen állam törvénye szerint indokolják, vagy azt bizonyítsák, hogy az elfogott egyen ugyanaz azzal, a ki a megkeresett állam bíróságai által elítélte.

Article XIII.

In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the State applied to shall admit as entirely valid evidence the sworn depositions or statements of witnesses taken in the other State, or copies thereof, and likewise the warrants and sentences issued therein, provided such documents are signed or certified by a Judge, Magistrate, or Officer of such State, and are authenticated by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of State.

Article XIII.

Die Behörden des ersuchten Staates haben bei der Prüfung, welche ihnen nach den vorstehenden Bestimmungen obliegt, den beidseitigen Zeugnisaussagen, welche in dem anderen Staate zu Protokoll genommen sind, ingieichen den Abschriften solcher Original-Zeugnisaussagen, und ebenso den Haftbefehlen und Strafurtheilen volle Beweiskraft beizulegen, vorausgesetzt dass diese Schriftstücke durch einen Richter, eine obrigkeitliche Person oder einen anderen Beamten dieses Staates unterschrieben oder bescheinigt und durch einen beidseitigen Zeugen oder durch Beidrückung des Amtsigels des Justiz- oder eines anderen Staatsministers beglaubigt sind.

XIII. Csikk.

A megkeresett állam hatósági kötelesek a fennebbi határozatok szerint általuk teljesítendő bíráknál, a másik államban jegyzőkönyvbe vett eskü alatti tanuvallomásoknak, úgyintén ily eredeti tanuvallomások jegyzőkönyvek másolatának, valamint az elfogadási parancsoknak és büntető ítéleteknek teljes bizonyító erőt tulajdonítani: feltéve, hogy ezen iratok azon állam valamelyik bírójá, felsőbbségi személye vagy hivatalnok által irattak alá, és megsekketett tanu által, vagy az igazságügyminiszter vagy más államminiszter hivatali pecsétével hitelesítették.

Article XIV.

If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, he shall be set at liberty.

Artikel XIV.

Wenn zur Auslieferung genügende Beweise nicht binnen zwei Monaten von dem Tage der Ergreifung des Flüchtigen an beigebracht werden, so ist der Ergriffene auf freien Fuss zu setzen.

XIV. Csikk.

Ha a menekült letartóztatástól számított két hó alatt a kiadás engedélyezésére elegendő bizonyítékok nem költöztethetnek: a letartóztatott egyen szabad lábra helyezendő.

Article XV.

All articles seized, which were in the possession of the person to be surrendered at the time of his apprehension, shall, if the competent authority of the State applied to for extradition has ordered the delivery thereof, be given up when the extradition takes place; and this delivery shall extend not only to property of the accused, but also to everything which may serve as a proof of the crime. If the extradition cannot be carried out in consequence of the flight or death of the individual who is claimed, the delivery of the above-mentioned objects shall take place nevertheless.

Artikel XV.

Alle in Beschlag genommenen Gegenstände, welche sich zur Zeit der Ergreifung im Besitze des Ausliefernden befinden, sollen, wenn die zuständige Behörde des um die Auslieferung ersuchten Staates die Ausantwortung derselben angeordnet hat, bei Vollziehung der Auslieferung mit übergeben werden, und es soll sich diese Ueberlieferung nicht bloß auf die Habe des Verfolgten und auf die entfremdeten Gegenstände, sondern auf Alles erstrecken, was zum Beweise der strafbaren Handlung dienen kann. Wenn die Auslieferung, nachdem sie angeordnet worden ist, wegen Flucht oder Tod der reklamirten Individuums nicht mehr vollzogen werden kann, soll dennoch die Uebergabe der oberwähnten Gegenstände stattfinden.

XV. Csikk.

Mindazon sár alá vett tárgyak, melyek a kiadandó egyen elfogásakor ennek birtokában találhatók, ha azoknak kiadását a megkeresett állam illetékes hatósága elrendelék, a bűntettendő cselekményről való vádlott vagyonára és az általa elhajdonított tárgyra, ha ezen mind azon dolgokra kiterjed, a melyek a bűntettendő cselekmény bizonyítására szolgálhatnak.

Ha a már engedélyezett kiadás a kiadandó kívánt egyen miközben halála miatt nem is hajtható végre, fentartott tárgyak mégis kiadandók.

Article XVI.

Each of the Contracting Parties shall defray the expenses occasioned by the arrest within its territories, the detention, and the conveyance to its frontier, of the persons to be surrendered, in pursuance of this Treaty.

Artikel XVI.

Jeder der vertragenden Theile wird die Kosten tragen, welche durch die Festnahme und Anhaltung der auf Grund dieses Vertrages auszuliefernden Personen innerhalb seiner Staatsgebiete und deren Transport bis an seine Grenzen verursacht werden.

XVI. Csikk.

A szerződő felek mindgyike viseli azon költségeket, melyek az ezen szerződés értelmében kiadandó egyéneknek a kiadó állam területén eszközölt elfogatás, letartóztatás és saját határáig való elszállítás által okozottak.

Article XVII.

The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of Her Britannic Majesty.

The requisition for the surrender of a fugitive criminal who has taken refuge in any of such Colonies or foreign possessions shall be made to the Governor or chief authority of such Colony or possession by the chief Consular Officer of Austria-Hungary in such colony or possession.

Such requisitions may be disposed of, subject always, as nearly as may be, to the provisions of this Treaty, by the said Governor or chief authority, who, however, shall be at liberty either to grant the surrender or to refer the matter to his Government.

Her Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of Austro-Hungarian criminals, who may take refuge within such Colonies and foreign possessions, on the basis as nearly as may be, of the provisions of the present Treaty.

The requisition for the surrender of a fugitive criminal from any Colony or foreign possession of Her Britannic Majesty shall be governed by the rules laid down in the preceding Articles of the present Treaty.

Article XVIII.

The present Treaty shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties, but shall remain in force for six months after notice has been given for its termination.

The Treaty shall be ratified, and the ratifications shall be exchanged at Vienna as soon as possible.

In witness whereof, the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

Done at Vienna, the 3rd day of December, in the year of Our Lord one thousand eight hundred and seventy-three.

Artikel XVII.

Die Bestimmungen des gegenwärtigen Vertrages sollen auf die Colonien und auswärtigen Besitzungen Ihrer Grossbritannischen Majestät Anwendung finden.

Der Antrag auf Auslieferung eines flüchtigen Verbrechers, welcher in einer dieser Colonien oder auswärtigen Besitzungen Zuflucht gefunden hat, soll an den Statthalter oder die oberste Behörde dieser Colonie oder Besitzungen durch den obersten Consular Beamten der österreichisch-ungarischen Monarchie in dieser Colonie oder Besitzung gerichtet werden.

Ueber solche Anträge soll der gedachte Statthalter oder die gedachte oberste Behörde so viel als möglich nach den Bestimmungen des gegenwärtigen Vertrages vorgehen, jedoch soll denselben freistehen, entweder die Auslieferung zu bewilligen oder über den Fall an ihre Regierung zu berichten.

Ihre Grossbritannischen Majestät soll es jedoch freistehen, in den Britischen Colonien und auswärtigen Besitzungen über die Auslieferung von Staatsangehörigen der österreichisch-ungarischen Monarchie, welche innerhalb dieser Colonien und auswärtigen Besitzungen Zuflucht gefunden haben, auf möglichst gleicher Grundlage mit den Bestimmungen des gegenwärtigen Vertrages besondere Anordnungen zu treffen.

Anträge betreffend die Auslieferung von Verbrechern, welche aus einer Colonie oder auswärtigen Besitzung Ihrer Grossbritannischen Majestät geflüchtet sind, sollen nach den Bestimmungen der vorstehenden Artikel des gegenwärtigen Vertrages behandelt werden.

Artikel XVIII.

Der gegenwärtige Vertrag soll zehn Tage nach seiner, in Gemässheit der durch die Gesetzgebung der hohen Vertragenden Theile vorgeschriebenen Formen erfolgten Veröffentlichung in Kraft treten. Der Vertrag kann von jedem der beiden hohen vertragenden Theile aufgekündigt werden, bleibt jedoch nach erfolgter Aufkündigung noch sechs Monate in Kraft.

Der Vertrag wird ratifizirt und die Ratifikationen werden so bald wie möglich, in Wien ausgewechselt werden.

Zu Urkund desso haben die beiderseitigen Bevollmächtigten die gegenwärtige Uebereinkunft unterschrieben und mit ihren Wappen unterzeichnet.

So geschehen zu Wien, am 3ten December, im Jahre des Heils Eintausend achthundert siebenzig und drei.

(L.S.) Andrew Buchanan.
(L.S.) Andrassy.

XVII. Cikk.

A jelen szerződés határozatai közvetlenül bírnak Ő Nagybritanniai Felségének gyarmataiban és kultartományjaiban is.

As ezen gyarmatok vagy kultartományok valamelyikébe menekült bűntettes kiadatása iránti megkeresés, az osztrák-magyar monarchia Consulságának az illető gyarmatban vagy kultartományban székelő legfőbb hivatalnokai által, a gyarmat vagy tartomány helytartójához, vagy legfőbb hatóságához intézendő.

A helytartó vagy az illető legfőbb hatóság köteles ily megkeresésre lehetőleg a jelen szerződés határozatai szerint eljárni, szabadtsággal állandóan azonban a kiadást vagy elcsúszást, vagy pedig a felmerült esetről saját kormányához jelentést tenni.

Ő Nagybritanniai Felségének mindazonáltal szabadságában áll, gyarmataiban és kultartományjaiban az osztrák-magyar monarchia oda menekült alattvalóinak kiadást a jelen szerződés határozataival lehetőleg azonos alapon külön intézkedések által szabályozni.

Oly megkeresések elintézésénél melyek Ő Nagybritanniai Felségének valamely gyarmatából vagy kultartományából megmenekült bűntettek kiadatására vonatkoznak, a jelen szerződés fennkebbi cikkjeinek határozatai alkalmazandók.

XVIII. Cikk.

A jelen szerződés tíz nappal a magas szerződőfelek törvényei által megszabott módon eszközölt kihirdetése után lép hatályba.

Ezen szerződés a magas szerződő felek bármelyike által felmondása után még hat hónapig érvényben marad.

E szerződés megsejtendő, ha a megsejtések a lehető legrövidebb idő alatt kölcsönösen feleken közölendők.

Minek híteleül a jelen szerződés a mindkét rész teljhatalmasozott aláírták és pecsétjükkal ellátták.

Kelt Bécsben, decemberhó 3^{án} napján, az Ur ezer nyolczszáz hetvenharmadik évében.

And whereas the ratifications of the said Treaty were exchanged at Vienna on the tenth instant:

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and in virtue of the authority committed to Her by the said recited Act, doth order, and it is hereby ordered, that from and after the thirtieth day of March, one thousand eight hundred and seventy-four, the said Act shall apply in the case of the said Treaty with the Emperor of Austria.

1902. No. 737.

At the Court at Balmoral, the 15th day of September, 1902.

PRESENT :

The King's Most Excellent Majesty.

His Royal Highness the Prince of Wales.

Duke of Fife.

Mr. Secretary Akers-Douglas.

Sir Dighton Probyn.

Whereas by the Extradition Acts, 1870 to 1895,* it was amongst other things enacted that, where an arrangement has been made with any foreign State with respect to the surrender to such State of any fugitive criminals, His Majesty may, by Order in Council, direct that the said Acts shall apply in the case of such foreign State ; and that His Majesty may, by the same or any subsequent Order, limit the operation of the Order, and restrict the same to fugitive criminals who are in or suspected of being in the part of His Majesty's dominions specified in the Order, and render the operation thereof subject to such conditions, exceptions, and qualifications as may be deemed expedient :

And whereas a Treaty was concluded on the 3rd day of December, 1873, between Her late Majesty Queen Victoria and His Majesty the Emperor of Austria and King of Hungary for the mutual extradition of fugitive criminals, in the case of which Treaty "The Extradition Act, 1870," was applied by Order in Council of the 17th March, 1874 : †

And whereas a Declaration was concluded on the 26th day of June, 1901, between His Majesty and His Majesty the Emperor of Austria, King of Hungary, amending Article XI. of the said

* 33 & 34 Vict. c. 52; 36 & 37 Vict. c. 60; 58 & 59 Vict. c. 33.

† Printed at p. 11 above.

Treaty of the 3rd December, 1873, for the mutual extradition of fugitive criminals, which Declaration is in the terms following:—

“As it is considered necessary by the Government of Great Britain and Ireland and by the Governments of Austria and Hungary to extend the period of fourteen days fixed in Article XI of the Treaty for the mutual surrender of criminals, concluded on the 3rd December, 1873, between Her late Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, &c., on one side, and His Majesty the Emperor of Austria, King of Bohemia, &c., and Apostolic King of Hungary, on the other, the respective Plenipotentiaries, undersigned, have agreed that—

“The last paragraph of Article XI of the said Treaty of Extradition shall be altered as follows:—

“Provided, however, that he shall be discharged if, within the shortest time possible, and at the utmost within one month, a requisition for his surrender in accordance with the terms of Article IX of this Treaty be not made by the Diplomatic Representative of the State which requests his extradition.”

“The present Declaration shall have the same force and duration as the Extradition Treaty of the 3rd December, 1873, to which it relates.

“The present Declaration shall be ratified, and the ratifications shall be exchanged as soon as possible at London.

“In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

“Done in duplicate at London, the 26th day of June, 1901.

“For Great Britain and Ireland, His Britannic Majesty's Principal Secretary of State for Foreign Affairs,

“(L.S.) LANSDOWNE.

“For Austria and for Hungary, the Austro-Hungarian Ambassador,

“(L.S.) DEYM.”

“NACHDEM von der Regierung Grossbritanniens und Irlands und von den Regierungen Oesterreichs und Ungarns, die Verlängerung der im Artikel XI des zwischen Seiner Majestät der Königin des vereinigten Königreiches von Grossbritannien und Irland, Kaiserin von Indien, &c., einerseits, und Seiner Majestät dem Kaiser von Oesterreich, König von Böhmen, &c., und Apostolischen König von Ungarn, andererseits, am 3. December 1873, über die gegenseitige Auslieferung der Verbrecher abgeschlossenen Staatsvertrages festgesetzten Frist von 14 Tagen für nothwendig erkannt worden ist, haben die hierzu bevollmächtigten Unterzeichneten Folgendes vereinbart:—

“Der letzte Absatz des Artikels XI des erwähnten Auslieferungs-Vertrages wird folgendermassen abgeändert:—

“Vorausgesetzt wird übrigens, dass in der kürzesten Frist und zwar längstens binnen einem Monate bei sonstiger Entlassung des Verurtheilten, durch den diplomatischen Vertreter des um die Auslieferung ersuchenden Staates eine Requisition wegen der Auslieferung in der dem Artikel IX dieses Vertrages entsprechenden Weise erhoben wird.

“Die gegenwärtige Erklärung wird dieselbe Kraft und Dauer haben, wie der Auslieferungs-Vertrag vom 3. December 1873, auf welchen sie sich bezieht.

“Die gegenwärtige Erklärung wird ratificirt werden und werden die Ratificationen sobald als möglich in London ausgetauscht werden.

“Zu Urkund dessen haben die Unterzeichneten diese Erklärung gefertigt und ihre Siegel beigedrückt.

“So geschehen zu London, in doppelter Ausfertigung am 26 Juni 1901.

“Für Grossbritannien und Irland, der Königlich Grossbritannische Staatssecretär für die Auswärtigen Angelegenheiten,

“(L.S.) LANSDOWNE.

“Für Oesterreich und für Ungarn, der Oesterreichisch-Ungarische Botschafter,

“(L.S.) DEYM.”

“MIUTÁN Nagybritannia és Irhon kormányja, és Austria és Magyarország kormányai a büntetettek kölcsönös kiadatlása tárgyában egyetemesül Ő Felsője Nagybritannia és Irhon egyesült királyságok boldogult királynője, India császárnője &tb. másrésről Ő Felsője Austria császára, Oeshorvág királya &tb. és Magyarország apostoli királya között 1873 évi december hó 3 án kötött állam szerződés XI cikkében megállapított 14 napi határidőnek meghosszabbítását szükségesnek találták, az illető alulírott meghatalmazottak a következő megállapodásra jutottak:—

“Az említett kiadatlási szerződés XI cikkének utolsó bekezdése következőképen módosul:—

“Feltételkéntetik azonban, hogy a kiadatlási iránti megkeresés a megkeresett állam diplomatiái képviselője által az ezen szerződés IX cikkének megjelölt módon a leggyorsabb idő a legkorábban egy hónap alatt elő fog terjesztetni, ellenkező esetben az elutasítási szabadon bocsátatik.”

“A jelen nyilatkozat ugyanazon az erővel fog bírti s ugyanoly tartamú lesz, mint az 1873 évi december 3 án kötött kiadatlási szerződés, a melyre vonatkozik.

“A jelen nyilatkozat meg fog erősítettni, s a meg erősítési okiratok, mikélyt lehet Londonban ki fognak cseréltetni.

“Minak hiteltélti az illető meghatalmasottak a nyilatkozatot aláírták és pecsétjeikkel ellátták.

“Kelt két példányban Londonban 1901 évi június hó 26-ik. napján.

“Nagybritannia és Irhon részéről, a Királyi nagybritanniai Külügyi Al-miniszter,

“(L.S.) LANSDOWNE.

“Austria és Magyarország részéről, az ausztrálmagyar nagy követ,

“(L.S.) DEYM.”

And whereas the ratifications of the said Declaration were exchanged at London on the 25th day of June, 1902 :

Now, therefore, His Majesty, by and with the advice of His Privy Council, and in virtue of the authority committed to him by the said recited Acts, doth order, and it is hereby ordered, that from and after the 6th day of October, 1902, the said Acts shall apply in the case of Austria and Hungary under and in accordance with the said Treaty as amended by the said Declaration above set forth.

Provided always that the operation of the said Acts shall be and remain suspended within the Dominion of Canada so long as an Act of the Parliament of Canada passed in 1886,* and entitled "An Act respecting the Extradition of Fugitive Criminals," shall continue in force there, and no longer.

A. W. FitzRoy.

(c) **Belgium.**

1902. No. 208.

At the Court at St. James's, the 6th day of March, 1902.

PRESENT :

The King's Most Excellent Majesty.

Lord President.

Lord James of Hereford.

Earl of Kintore.

Sir Arthur Wilson.

Whereas by the Extradition Acts, 1870 to 1895,† it is amongst other things enacted that, where an arrangement has been made with any foreign State with respect to the surrender to such State of any fugitive criminals, His Majesty may, by Order in Council, direct that the said Acts shall apply in the case of such foreign State ; and that His Majesty may, by the same or any subsequent Order, limit the operation of the Order, and restrict the same to fugitive criminals who are in or suspected of being in the part of His Majesty's dominions specified in the Order, and render the operation thereof subject to such conditions, exceptions, and qualifications as may be deemed expedient :

And whereas a Treaty was concluded on the 29th day of October, 1901, between His Majesty and His Majesty the King of the Belgians for the mutual extradition of fugitive criminals, which Treaty is in the terms following :—

"His Majesty the King of the United Kingdom of Great Britain and Ireland, Emperor of India, and and His Majesty the King of the Belgians, having mutually resolved to conclude a new treaty for the extradition of criminals, the said High Contracting Parties have named as their Plenipotentiaries to conclude a Treaty for this purpose, that is to say :

"Sa Majesté le Roi du Royaume-Uni de la Grande-Bretagne et d'Irlande, Empereur des Indes, et Sa Majesté le Roi des Belges, ayant résolu de conclure un nouveau Traité pour l'extradition des criminels, les dites Hautes Parties Contractantes ont nommé pour leurs Plénipotentiaires, à l'effet de conclure un Traité dans ce but, savoir :

* "The Extradition Act" (Revised Statutes of Canada, c. 142).

† 33 & 34 Vict. c. 52; 36 & 37 Vict. c. 60; 58 & 59 Vict. c. 33.

"His Majesty the King of the United Kingdom of Great Britain and Ireland, Emperor of India, Constantine Phipps, Esquire, Companion of the Most Honourable Order of the Bath, His Envoy Extraordinary and Minister Plenipotentiary to His Majesty the King of the Belgians ; and

"His Majesty the King of the Belgians, the Baron de Favereau, Knight of His Order of Leopold, Member of the Senate, His Minister of Foreign affairs :

"Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following Articles :—

"ARTICLE I.

"It is agreed that His Britannic Majesty and His Majesty the King of the Belgians shall, on requisition made in their name by their respective Diplomatic Agents, deliver up to each other reciprocally, under the circumstances and conditions stated in the present Treaty, any persons who, being accused or convicted, as principals or accessories, of any of the crimes hereinafter specified, committed within the territories of the requiring party, shall be found within the territories of the other party :—

"1. Murder (including assassination, parricide, infanticide, poisoning), or attempt or conspiracy to murder, in cases jointly provided for by the laws of the two countries.

"2. Administering drugs or using instruments with intent to procure the miscarriage of women.

"3. Manslaughter.

"4. Bigamy.

"5.—(a.) Counterfeiting or altering money, or uttering counterfeit or altered money.

"(b.) Knowingly making, without lawful authority, any instrument, tool, or engine adapted and intended for the counterfeiting of the coin of the Realm.

"Sa Majesté le Roi du Royaume-Uni de la Grande-Bretagne et d'Irlande, Empereur des Indes, Constantin Phipps, Esquire, Compagnon du Très Honorable Ordre du Bain, son Envoyé Extraordinaire et Ministre Plénipotentiaire près Sa Majesté le Roi des Belges ; et

"Sa Majesté le Roi des Belges, Monsieur le Baron de Favereau, Chevalier de l'Ordre de Léopold, Sénateur, son Ministre des Affaires Etrangères :

"Lesquels, après s'être communiqué réciproquement leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus des Articles suivants :—

"ARTICLE I.

"Il est convenu que Sa Majesté Britannique et Sa Majesté le Roi des Belges, sur la demande faite en leur nom par leurs Agents Diplomatiques respectifs, se livreront réciproquement, sous les conditions stipulées dans le présent Traité, tous les individus qui, étant poursuivis ou condamnés comme auteurs ou complices, pour l'un des crimes ou délits ci-après spécifiés, commis sur le territoire de la partie requérante, seront trouvés sur le territoire de l'autre partie :—

"1. Meurtre (y compris l'assassinat, le parricide, l'infanticide, l'empoisonnement), ou tentative de meurtre ou complot en vue de meurtre dans les cas prévus simultanément par la législation des deux pays.

"2. Administration de drogues ou usage d'instruments en vue de provoquer l'avortement.

"3. Homicide commis sans préméditation ou guet-apens.

"4. Bigamie.

"5.—(a.) Contrefaçon ou altération de monnaie, ainsi que mise en circulation de la monnaie contrefaite ou altérée.

"(b.) Avoir fabriqué sciemment, sans compétence légale un instrument, outil, ou engin propre à contrefaire la monnaie du Royaume, et destiné à ce but.

"6. Abandoning children, exposing or unlawfully detaining them.

"7. Forgery, counterfeiting, or altering or uttering what is forged, or counterfeited or altered.

"8. Any malicious act done with intent to endanger persons in a railway train.

"9. Embezzlement or larceny.

"10. Receiving any chattel, money, valuable security, or other property, knowing the same to have been embezzled, stolen, or feloniously obtained.

"11. Obtaining money, goods, or valuable securities by false pretences.

"12. Crimes by bankrupts against bankruptcy law.

"13. Fraud by a bailee, banker, agent, factor, trustee, or director, or member or public officer of any Company, made criminal by any law for the time being in force.

"14. Rape.

"Carnal knowledge, or any attempt to have carnal knowledge, of a girl under 16 years of age, so far as such acts are punishable by the law of the State upon which the demand is made.

"Indecent assault. Indecent assault without violence upon children of either sex under 13 years of age.

"15. Abduction

"16. Child-stealing.

"17. Kidnapping and false imprisonment.

"18. Burglary or housebreaking.

"6. Délaissement, exposition, ou recel d'enfants.

"7. Faux, contrefaçon, ou altération, ou mise en circulation de ce qui est falsifié, contrefait, ou altéré.

"8. Toute acte punissable commis avec l'intention méchante de mettre en danger des personnes se trouvant dans un train de chemin de fer.

"9. Soustraction frauduleuse ou vol.

"10. Recèlement frauduleux d'argent, valeur ou objets mobiliers provenant d'escroquerie, vol, ou détournement.

"11. Escroquerie d'argent de marchandises, ou valeurs, sous de faux prétextes.

"12. Crimes des banqueroutiers frauduleux prévus par la loi.

"13. Détournement ou dissipation frauduleux au préjudice d'autrui d'effets, deniers, marchandises, quittances, écrits de toute nature, contenant ou opérant obligation ou décharge, et qui avaient été remis à la condition de les rendre ou d'en faire un usage ou un emploi déterminé.

"14. Viol.

"Commerce sexual, ou tentative de commerce sexual, avec une fille âgée de moins de 16 ans, en tant que ces actes sont punissables par la loi de l'État auquel la demande est adressée.

"Attentat à la pudeur avec violences ou menaces. Attentat à la pudeur sans violences ni menaces sur des enfants de l'un ou de l'autre sexe, âgés de moins de 13 ans.

"15. Enlèvement de mineurs.

"16. Enlèvement d'enfant.

"17. Attentats à la liberté individuelle pour autant que les lois des deux pays permettent l'extradition de ce chef.

"18. Vol avec effraction ou escalade.

"19. Arson.

"20. Robbery with violence (including intimidation).

"21. Threats by letter or otherwise, with intent to extort.

"22. Piracy by law of nations.

"23. Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

"24. Assaults on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.

"25. Revolt or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.

"26. Perjury and subornation of perjury.

"27. Malicious injury to property, if the offence be indictable.

"28. Assault occasioning actual bodily harm. Malicious wounding or inflicting grievous bodily harm.

"29. Offences in connection with the Slave Trade punishable by the laws of both States.

"Provided that the surrender shall be made only when, in the case of a person accused, the commission of the crime shall be so established as that the laws of the country where the fugitive or person accused shall be found would justify his apprehension and commitment for trial if

"19. Incendie.

"20. Vol avec violence (comportant l'intimidation).

"21. Menaces d'attentat punissable d'une peine criminelle.

"22. Prise d'un navire par les marins ou passagers par fraude ou violence envers le capitaine.

"23. Échouement, perte, destruction, ou tentative d'échouement, de perte, ou de destruction d'un navire à la mer par le capitaine ou les officiers et gens de l'équipage.

"24. Attaque ou résistance à bord d'un navire en haute mer avec violence et voies de fait envers le capitaine par plus du tiers de l'équipage.

"25. Révolte ou complot de révolte par deux ou plusieurs personnes à bord d'un navire en haute mer, contre l'autorité du capitaine.

"26. Faux serment, faux témoignage, et subornation de témoins.

"27. Destruction ou dégradation de constructions, machines, plantations, récoltes, instruments d'agriculture, appareils télégraphiques, ouvrages d'art, navires, tombeaux; dommages causés volontairement au bétail et à la propriété mobilière, délits qui sont réprimés en Angleterre sous le nom de "malicious injury to property."

"28. Coups portés ou blessures faites volontairement avec préméditation ou ayant causé une maladie paraissant incurable, une incapacité permanente de travail personnel, la perte de l'usage absolu d'un organe ou une mutilation grave.

"29. Crimes ou délits concernant la traite des esclaves en tant qu'ils sont punissables d'après les lois des deux pays.

"Toutefois, l'extradition ne sera accordée dans le cas d'une personne accusée que si la perpétration du crime ou du délit est établie de telle façon que les lois du pays où le fugitif accusé sera trouvé justifieraient son arrestation et son emprisonnement si le crime ou le délit avait été commis

the crime had been there committed, and in the case of a person alleged to have been convicted, on such evidence as, according to the laws of the country where he is found, would prove that he had been convicted.

"In no case can the surrender be made unless the crime shall be punishable according to the laws in force in both countries with regard to extradition.

"In no case, nor on any consideration whatever, shall the High Contracting Parties be bound to surrender their own subjects, whether by birth or naturalization.

"ARTICLE II.

"In the dominions of His Britannic Majesty, other than the Colonies or foreign possessions of His Majesty, the manner of proceeding shall be as follows:—

"1. In the case of a person accused—

"The requisition for the surrender shall be made to His Britannic Majesty's Principal Secretary of State for Foreign Affairs by the Minister or other Diplomatic Agent of His Majesty the King of the Belgians, accompanied by a warrant of arrest or other equivalent judicial document issued by a Judge or Magistrate duly authorized to take cognizance of the acts charged against the accused in Belgium, together with duly authenticated depositions or statements taken on oath or upon solemn affirmation before such Judge or Magistrate, clearly setting forth the said acts, and containing a description of the person claimed, and any particulars which may serve to identify him.

"The said Secretary of State shall transmit such documents to His Britannic Majesty's Principal Secretary of State for the Home Department, who shall then, by order under his hand and seal, signify to some Police Magistrate in London that such requisition has been made, and require him, if there be due cause, to issue his warrant for the apprehension of the fugitive.

dans ce pays; et dans le cas d'une personne prétendument condamnée, que sur la production d'une preuve qui, d'après les lois du pays où le fugitif a été trouvé, établirait suffisamment qu'il a été condamné.

"En aucun cas l'extradition ne pourra avoir lieu que lorsque le crime ou le délit sera prévu par la législation sur l'extradition en vigueur dans les deux pays.

"En aucun cas, ni sous aucun prétexte que ce soit, les Hautes Parties Contractantes ne seront obligées de livrer leurs nationaux, par naissance ou par naturalisation.

"ARTICLE II.

"Dans les États de Sa Majesté Britannique, autres que les Colonies ou les possessions étrangères de Sa Majesté, la manière de procéder sera la suivante—

"1. S'il s'agit d'une personne accusée—

"La demande d'extradition sera adressée au Premier Secrétaire d'État de Sa Majesté pour les Affaires Étrangères par le Ministre ou autre Agent Diplomatique de Sa Majesté le Roi des Belges. A cette demande seront joints un mandat d'arrêt ou autre document judiciaire équivalent, délivré par un Juge ou Magistrat dûment autorisé à prendre connaissance des actes imputés à l'accusé en Belgique, ainsi que les dépositions authentiques ou les déclarations faites sous serment ou sous affirmation solennelle devant ce Juge ou Magistrat, énonçant clairement les dits actes, et contenant outre le signallement de la personne réclamée, toutes les particularités qui pourraient servir à établir son identité.

"Le dit Secrétaire d'État transmettra ces documents au Premier Secrétaire d'État de Sa Majesté Britannique pour les Affaires Intérieures, qui, par un ordre de sa main et muni de son sceau, signifiera à l'un ou l'autre Magistrat de Police à Londres que la demande d'extradition a été faite, et le requerra, s'il y a lieu, de délivrer un mandat pour l'arrestation du fugitif.

"On the receipt of such order from the Secretary of State, and on the production of such evidence as would, in the opinion of the Magistrate, justify the issue of the warrant if the crime had been committed in the United Kingdom, he shall issue his warrant accordingly.

"When the fugitive shall have been apprehended, he shall be brought before a competent Magistrate. If the evidence to be then produced shall be such as to justify, according to the law of England, the committal for trial of the prisoner, if the crime of which he is accused had been committed in England, the Magistrate shall commit him to prison to await the warrant of the Secretary of State for his surrender, sending immediately to the Secretary of State a certificate of the committal and a report upon the case.

"After the expiration of a period from the committal of the prisoner, which shall never be less than fifteen days, the Secretary of State shall, by order under his hand and seal, order the fugitive criminal to be surrendered to such person as may be duly authorized to receive him on the part of the Government of His Majesty the King of the Belgians.

"2. In the case of a person convicted—

"The course of proceeding shall be the same as in the case of a person accused, except that the warrant to be transmitted by the Minister or other Diplomatic Agent in support of his requisition shall clearly set forth the crime of which the person claimed has been convicted, and state the fact, place, and date of his conviction. The evidence to be produced before the Magistrate shall be such as would, according to the law of England, prove that the prisoner was convicted of the crime charged.

"After the Magistrate shall have committed the accused or convicted person to prison to await the order of a Secretary of State for his surrender, such person shall have the right to apply for a writ of habeas corpus; if he should so apply, his surrender must be deferred until

"A la réception d'un semblable ordre du Secrétaire d'Etat, et sur la production de telle preuve qui, dans l'opinion de ce Magistrat, justifierait l'émission du mandat si le crime avait été commis dans le Royaume-Uni, il délivrera le mandat requis.

"Lorsque alors le fugitif aura été arrêté, il sera amené devant un Magistrat compétent. Si la preuve qu'on produira est de nature à justifier, selon la loi Anglaise, la mise en jugement du prisonnier, dans le cas où le crime dont il est accusé aurait été commis en Angleterre, le Magistrat l'enverra en prison pour attendre le mandat du Secrétaire d'Etat, nécessaire à l'extradition, et il adressera immédiatement au Secrétaire d'Etat une attestation de l'emprisonnement avec un rapport sur l'affaire.

"Après l'expiration d'un certain temps, qui ne pourra jamais être moindre de quinze jours depuis l'emprisonnement de l'accusé, le Secrétaire d'Etat, par un ordre de sa main et muni de son sceau, ordonnera que le criminel fugitif soit livré à telle personne qui sera dûment autorisée à le recevoir au nom du Gouvernement de Sa Majesté le Roi des Belges.

"2. S'il s'agit d'une personne condamnée—

"La marche de la procédure sera la même que dans le cas d'une personne accusée, sauf que le mandat à transmettre par le Ministre ou autre Agent Diplomatique à l'appui de la demande d'extradition énoncera clairement le crime pour lequel la personne réclamée aura été condamnée, et mentionnera le fait, le lieu, et la date du jugement. La preuve à produire devant le Magistrat sera telle que, d'après la loi Anglaise, elle établirait que le prisonnier a été condamné pour le crime dont on l'accuse.

"Après que le Magistrat aura envoyé la personne accusée ou condamnée en prison pour attendre l'ordre d'extradition du Secrétaire d'Etat, cette personne aura le droit de réclamer une ordonnance d'habeas corpus; l'extradition doit alors être différée jusqu'après la décision

after the decision of the Court upon the return to the writ, and even then can only take place if the decision is adverse to the applicant.

"ARTICLE III.

"In the dominions of His Majesty the King of the Belgians, other than the Colonies or foreign possessions of his said Majesty, the manner of proceeding shall be as follows :—

"1. In the case of a person accused—

"The requisition for the surrender shall be made to the Minister for Foreign Affairs of His Majesty the King of the Belgians by the Minister or other Diplomatic Agent of His Britannic Majesty, accompanied by a warrant of arrest or other equivalent judicial document issued by a Judge or Magistrate duly authorized to take cognizance of the acts charged against the accused in Great Britain, together with duly authenticated depositions or statements taken on oath or upon solemn affirmation before such Judge or Magistrate, clearly setting forth the said acts, and containing a description of the person claimed, and any other particulars which may serve to identify him.

"The Minister for Foreign Affairs shall transmit the warrant of arrest, with the documents thereto annexed, to the Minister of Justice, who shall forward the same to the proper judicial authority, in order that the warrant of arrest may be put in course of execution by the Chamber of the Council (Chambre du Conseil) of the Court of First Instance of the place of residence of the accused, or of the place where he may be found.

"The foreigner may claim to be provisionally set at liberty in any case in which a Belgian enjoys that right, and under the same conditions.

"The application shall be submitted to the Chamber of the Council (Chambre du Conseil).

"The Government will take the opinion of the Chamber of Indictments or Investigation (Chambre des Mises en Accusation) of the Court of Appeal within whose jurisdiction the foreigner shall have been arrested.

de la Cour sur le renvoi de l'ordonnance, et elle ne pourra avoir lieu que si la décision est contraire au demandeur.

"ARTICLE III.

"Dans les états de Sa Majesté le Roi des Belges, autres que les Colonies ou possessions étrangères de sa dite Majesté on procédera de la façon suivante :—

"1. S'il s'agit d'une personne accusée—

"La demande d'extradition sera adressée au Ministre des Affaires Étrangères de de Sa Majesté le Roi des Belges par le Ministre ou autre Agent Diplomatique de Sa Majesté Britannique ; à cette demande seront joint un mandat d'arrêt ou autre document judiciaire équivalent délivré par un Juge ou Magistrat dûment autorisé à prendre connaissance des actes imputés à l'accusé dans la Grande-Bretagne, ainsi que les dépositions authentiques ou les déclarations faites sous serment sous affirmation solennelle devant ce Juge ou Magistrat, énonçant clairement les dits actes, et contenant outre le signalement de la personne réclamée, toutes les particularités qui pourraient servir à établir son identité.

"Le Ministre des Affaires Étrangères transmettra le mandat d'arrêt, avec les pièces annexées, au Ministre de la Justice, qui fera parvenir les documents à l'autorité judiciaire, à l'effet de voir rendre le dit mandat d'arrêt exécutoire par la Chambre du Conseil du Tribunal de Première Instance du lieu de la résidence de l'inculpé ou du lieu où il pourra être trouvé.

"L'étranger pourra réclamer la liberté provisoire dans le cas où un Belge jouit de cette faculté, et dans les mêmes conditions.

"La demande sera soumise à la Chambre du Conseil.

"Le Gouvernement prendra l'avis de la Chambre des Mises en Accusation de la Cour d'Appel dans le ressort de laquelle l'étranger aura été arrêté.

"The hearing of the case shall be public, unless the foreigner should demand that it should be with closed doors.

"The public authorities and the foreigner shall be heard. The latter may obtain the assistance of counsel.

"Within a fortnight from the receipt of the documents they shall be returned, with a reasoned opinion, to the Minister of Justice, who shall decide and may order that the accused be delivered to the person duly authorised on the part of the Government of His Britannic Majesty.

"2. In case of a person convicted—

"The course of proceeding shall be the same as in the case of a person accused, except that the conviction or sentence of condemnation issued in original, or in an authenticated copy, to be transmitted by the Minister or other Diplomatic Agent in support of his requisition, shall clearly set forth the crime of which the person claimed has been convicted, and state the fact, place, and date of his conviction. The evidence to be produced shall be such as would, according to the Belgian laws, prove that the prisoner was convicted of the crime charged.

"ARTICLE IV.

"A fugitive criminal may, however, be apprehended under a warrant signed by any Police Magistrate, Justice of the Peace, or other competent authority in either country, on such information or complaint, and such evidence, or after such proceedings as would, in the opinion of the person issuing the warrant justify the issue of a warrant if the crime had been committed or the prisoner convicted in that part of the dominions of the two Contracting Parties in which he exercises jurisdiction: Provided, however, that, in the United Kingdom, the accused shall, in such case, be sent as speedily as possible before a competent Magistrate. He shall be discharged, as well in the United Kingdom as in Belgium, if within fourteen days

"L'audience sera publique, à moins que l'étranger ne réclame le huis-clos.

"Le Ministère Public et l'étranger seront entendus. Celui-ci pourra se faire assister d'un conseil.

"Dans la quinzaine à dater de la réception des pièces, elles seront renvoyées avec l'avis motivé au Ministre de la Justice, qui statuera et pourra ordonner que l'inculpé soit livré à la personne qui sera dûment autorisée au nom du Gouvernement de Sa Majesté Britannique.

"2. S'il s'agit d'une personne condamnée—

"Le cours de la procédure sera le même que dans le cas d'une personne accusée, sauf que le jugement ou l'arrêt de condamnation délivré en original ou en expédition authentique, à transmettre par le Ministre ou l'Agent Diplomatique à l'appui de la demande d'extradition, énoncera clairement le crime pour lequel la personne réclamée aura été condamnée, et mentionnera le fait, le lieu, et la date du jugement. La preuve à produire sera telle que, conformément aux lois Belges, elle établirait que le prisonnier a été condamné pour le crime dont on l'accuse.

"ARTICLE IV.

Un criminel fugitif peut, cependant, être arrêté sur un mandat délivré par tout Magistrat de Police, Juge de Paix, ou autre autorité compétente dans chaque pays, à la suite d'un avis, d'une plainte, d'une preuve, ou de tout autre acte de procédure qui, dans l'opinion de la personne délivrant le mandat, justifierait ce mandat, si le crime avait été commis ou la personne condamnée dans la partie des États des deux Contractants où elle exerce juridiction: Pourvu que, cependant, s'il s'agit du Royaume-Uni, l'accusé soit, dans un pareil cas envoyé aussi promptement que possible devant un Magistrat compétent. Il sera relâché, tant dans le Royaume-Uni qu'en Belgique, si dans les quatorze jours une demande d'extradition n'a

a requisition shall not have been made for his surrender by the Diplomatic Agent of the requiring State in the manner directed by Articles II and III of this Treaty."

"The same rule shall apply to the cases of persons accused or convicted of any of the crimes specified in this Treaty, and committed on the high seas on board any vessel of either country which may come into a port of the other."

"ARTICLE V.

"If within two months, counting from the date of arrest, sufficient evidence for the extradition shall not have been presented, the person arrested shall be set at liberty. He shall likewise be set at liberty if, within two months of the day on which he was placed at the disposal of the Diplomatic Agent, he shall not have been sent off to the reclaiming country."

"ARTICLE VI.

"When any person shall have been surrendered by either of the High Contracting Parties to the other, such person shall not, until he has been restored, or had an opportunity of returning to the country from whence he was surrendered, be triable or tried for any offence committed in the other country prior to the surrender, other than the particular offence on account of which he was surrendered."

"ARTICLE VII.

"No accused or convicted person shall be surrendered if the offence in respect of which his surrender is demanded shall be deemed by the party upon which it is made to be a political offence, or to be an act connected with (connexe à) such an offence, or if he prove to the satisfaction of the Magistrate, or of the Court before which he is brought on habeas corpus, or to the Secretary of State, that the requisition for his surrender has in fact been made with a view to try or to punish him for an offence of a political character."

"ARTICLE VIII.

"Warrants, depositions, or statements on oath issued or taken in the dominions of either of the two High

Contracting Parties, shall be received and acted upon by the Diplomatic Agent of the country to which they are addressed, in the manner directed by Articles II and III of this Treaty."

"La même règle s'appliquera aux cas de personnes poursuivies ou condamnées du chef de l'un des crimes spécifiés dans ce Traité, et commis en pleine mer, à bord d'un navire de l'un des deux pays, et qui viendrait dans un port de l'autre."

"ARTICLE V.

"Si endéans les deux mois à partir de la date de l'arrestation des documents suffisants n'ont pas été produits, l'individu arrêté sera mis en liberté. Il sera également mis en liberté si endéans les deux mois du jour où il a été placé à la disposition de l'Agent Diplomatique, il n'a pas été emmené dans le pays requérant."

"ARTICLE VI.

"Lorsqu'une personne aura été extradée par l'une des Hautes Parties Contractantes, cette personne, jusqu'à ce qu'elle soit rentrée dans le pays d'où elle a été extradée, ou qu'elle ait eu occasion de le faire, ne sera poursuivie pour aucun délit commis dans l'autre pays avant l'extradition, autre que celui pour lequel l'extradition a eu lieu."

"ARTICLE VII.

"Aucune personne accusée ou condamnée ne sera extradée si le délit pour lequel l'extradition est demandée est considérée par la partie requise comme un délit politique, ou un fait connexe à un semblable délit, ou si la personne prouve à la satisfaction du Magistrat ou de la Cour devant laquelle elle est amenée pour l'habeas corpus, ou du Secrétaire d'Etat, que la demande d'extradition a été faite, en réalité, dans le but de la poursuivre ou de la punir pour un délit d'un caractère politique."

"ARTICLE VIII.

"Les mandats, dépositions, déclarations sous serment délivrés ou recueillis dans les États de l'une

Contracting Parties, and copies thereof, and certificates of or judicial documents stating the fact of conviction, shall be received in evidence in proceedings in the dominions of the other, if purporting to be signed or certified by a Judge, Magistrate, or officer of the country where they were issued or taken :

" Provided such warrants, depositions, statements, copies, certificates, and judicial documents are authenticated by the oath or solemn affirmation of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of State.

" ARTICLE IX.

" The surrender shall not take place if, since the commission of the acts charged, the accusation, or the conviction, exemption from prosecution or punishment, has been acquired by lapse of time, according to the laws of the country where the accused shall have taken refuge.

" ARTICLE X.

" If the individual claimed by one of the two High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers, on account of other crimes committed upon their respective territories, his surrender shall be granted to that State whose demand is earliest in date ; unless any other arrangement should be made between the Governments which have claimed him, either on account of the gravity of the crimes committed, or for any other reasons.

" ARTICLE XI.

" If the individual claimed should be under process, or condemned by the Courts of the country where he has taken refuge, his surrender may be deferred until he shall have been set at liberty in due course of law.

" In case he should be proceeded against or detained in such country on account of obligations contracted towards private individuals, his surrender shall, nevertheless, take

des deux Hautes Parties Contractantes, les copies de ces pièces, ainsi que les certificats ou les documents judiciaires établissant le fait de la condamnation, seront reçus comme preuve dans la procédure des États de l'autre Partie, s'ils sont revêtus de la signature ou accompagnés de l'attestation d'un Juge, Magistrat, ou fonctionnaire du pays où ils ont été délivrés ou recueillis :

" Pourvu que ces mandats dépositions, déclarations, copies, certificats, et documents judiciaires soient rendus authentiques par le serment ou affirmation solennelle d'un témoin, ou par le sceau officiel du Ministre de la Justice ou d'un autre Ministre d'Etat.

" ARTICLE IX.

" L'extradition n'aura pas lieu si, depuis les faits imputés, les poursuites, ou la condamnation, la prescription de l'action ou de la peine est acquise d'après les lois du pays où le prévenu s'est réfugié.

" ARTICLE X.

" Si l'individu réclamé par l'une des Hautes Parties Contractantes, en exécution du présent Traité, est aussi réclamé par une ou plusieurs autres Puissances du chef d'autres crimes commis sur leurs territoires respectifs, son extradition sera accordée à l'État dont la demande est la plus ancienne en date à moins qu'il n'existe entre les Gouvernements qui l'ont réclamé un arrangement qui déciderait de la préférence, soit à raison de la gravité des crimes commis, soit à raison de tout autre motif.

" ARTICLE XI.

" Si l'individu réclamé est poursuivi ou condamné par les Tribunaux du pays où il s'est réfugié, son extradition pourra être différée jusqu'à ce qu'il ait été mis en liberté selon le cours régulier de la loi.

" Dans le cas où il serait poursuivi ou détenu dans le même pays à raison d'obligations par lui contractées envers des particuliers, son extradition n'en aura pas moins lieu.

place, the injured party retaining his right to prosecute his claims before the competent authority.

"ARTICLE XII.

"Every article found in the possession of the individual claimed at the time of his arrest shall, if the competent authority so decide, be seized, in order to be delivered up with his person at the time when the surrender shall be made. Such delivery shall not be limited to the property or articles obtained by stealing or by fraudulent bankruptcy, but shall extend to everything that may serve as proof of the crime. It shall take place even when the surrender, after having been ordered, shall be prevented from taking place by reason of the escape or death of the individual claimed.

"The rights of third parties with regard to the said property or articles are, nevertheless, reserved.

"ARTICLE XIII.

"Each of the High Contracting Parties shall defray the expenses occasioned by the arrest within its territories, the detention, and the conveyance to its frontier, of the persons whom it may consent to surrender in pursuance of the present Treaty.

"ARTICLE XIV.

"The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of the two High Contracting Parties.

"The requisition for the surrender of a fugitive criminal who has taken refuge in a Colony or foreign possession of either party shall be made to the Governor or chief authority of such Colony or possession by the chief Consular Officer of the other in such Colony or possession; or, if the fugitive has escaped from a Colony or foreign possession of the Party on whose behalf the requisition is made, by the Governor or chief authority of such Colony or possession.

"Such requisitions may be disposed of, subject always, as nearly as may be, to the provisions of this Treaty, by the respective Governors or chief

sauf à la partie lésée à faire valoir ses droits devant l'autorité compétente.

"ARTICLE XII.

"Tout objet trouvé en la possession de l'individu réclamé au moment de son arrestation sera, si l'autorité compétente en a ainsi ordonné, saisi, pour être livré avec sa personne lorsque l'extradition aura lieu. Cette remise ne sera pas limitée aux objets acquis par vol ou banqueroute frauduleuse, mais elle s'étendra à toute chose qui pourrait servir de pièce de conviction. Elle se fera même si l'extradition, après avoir été accordée, ne peut s'accomplir par suite de l'évasion ou de la mort de l'individu réclamé.

"Sont, cependant, réservés les droits des tiers sur les objets susmentionnés.

"ARTICLE XIII.

"Chacune des Hautes Parties Contractantes supportera les frais occasionnés par l'arrestation sur son territoire, la détention, et le transport à la frontière des personnes qu'elle consentirait à extraditer en exécution du présent Traité.

"ARTICLE XIV.

"Les stipulations du présent Traité seront applicables aux Colonies et possessions étrangères des deux Hautes Parties Contractantes.

"La demande d'extradition d'un criminel fugitif qui s'est réfugié dans une Colonie ou possession étrangère de l'une des Parties sera faite au Gouverneur ou au fonctionnaire principal de cette Colonie ou possession par le principal Agent Consulaire de l'autre dans cette Colonie ou possession; ou, si le fugitif s'est échappé d'une Colonie ou possession étrangère de la Partie au nom de laquelle l'extradition est demandée, par le Gouverneur ou le fonctionnaire principal de cette Colonie ou possession.

"Ces demandes seront faites ou accueillies en suivant toujours, aussi exactement que possible, les stipulations de ce Traité par les Gouverneurs

authorities, who, however, shall be at liberty either to grant the surrender or to refer the matter to their Government.

"His Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of Belgian criminals who may there take refuge, on the basis, as nearly as may be, of the provisions of the present Treaty.

"ARTICLE XV.

"The present Treaty shall come into operation ten days after its publication, in conformity with the laws of the respective countries.

"From the day when the present Treaty shall come into force, the Treaty of Extradition between the two countries of the 20th May, 1876; the Declaration between the British and Belgian Governments, dated the 23rd July, 1877, extending the Treaty of the 20th May, 1876, to certain additional crimes; the further Declaration of the 21st April, 1887, amending Article I. of the Treaty of the 20th May, 1876; and the Convention of the 27th August, 1896, further amending the Treaty of the 20th May, 1876, shall all cease to have effect; but the present Treaty shall apply to all crimes within the Treaty, whether committed before or after the day when it comes into force.

"Either Party may at any time terminate the Treaty on giving to the other six months' notice of its intention.

"ARTICLE XVI.

"The present Treaty shall be ratified, and the ratifications shall be exchanged at Brussels as soon as may be within six weeks from the date of signature.

"In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

"Done at Brussels, the twentieth day of October, in the year of our Lord one thousand nine hundred and one.

"(L.S.) CONSTANTINE PHIPPS.
" (L.S.) FAVEREAU."

ou premiers fonctionnaires qui, cependant, auront la faculté ou d'accorder l'extradition ou d'en référer à leur Gouvernement.

"Sa Majesté Britannique se réserve, cependant, le droit de faire des arrangements spéciaux dans les Colonies Anglaises ou possessions étrangères pour l'extradition de criminels Belges qui y auraient cherché refuge, en se conformant, aussi exactement que possible, aux stipulations du présent Traité.

"ARTICLE XV.

"Le présent Traité entrera en vigueur dix jours après sa publication dans les formes prescrites par la législation des pays respectifs.

"A partir du jour où le présent Traité entrera en vigueur, le Traité d'Extradition entre les deux pays du 20 Mai, 1876, la Déclaration entre les Gouvernements Britannique et Belge du 23 Juillet, 1877, étendant le Traité du 20 Mai, 1876, à certains autres délits, la Déclaration du 21 Avril, 1887, modifiant l'Article I^{er} du Traité du 20 Mai, 1876, et la Convention du 27 Août, 1896, portant nouvelle modification du Traité du 20 Mai, 1876, cesseront leurs effets; mais le présent Traité sera applicable à tous les délits prévus au Traité qu'ils aient été commis avant ou après la date où il sera entré en vigueur.

"Chaque Partie peut en tout temps mettre fin au Traité en donnant à l'autre, six mois à l'avance avis de son intention.

"ARTICLE XVI.

"Le présent Traité sera ratifié, et les ratifications seront échangées à Bruxelles le plus tôt possible dans les six semaines de la date de la signature.

"En foi de quoi les Plénipotentiaires respectifs ont signé ce même Traité, et y ont apposé le sceau de leurs armes.

"Fait à Bruxelles, le vingt-neuvième jour du mois d'Octobre, de l'an de grâce mil neuf cent un.

* This Treaty and the extending and amending Declarations, together with the Orders in Council (superseded by the present Order) applying the Extradition Acts thereto, are printed in Statutory Rules and Orders Revised (1st Edition), Vol. 3, pp. 8-22, and Statutory Rules and Orders, 1896, pp. 101-104.

And whereas the ratifications of the said Treaty were exchanged at Brussels on the 6th day of December, 1901 :

Now, therefore, His Majesty, by and with the advice of His Privy Council, and in virtue of the authority committed to Him by the said recited Acts, doth order, and it is hereby ordered, that from and after the seventeenth day of March, 1902, the said Acts shall apply in the case of Belgium, and of the said Treaty with Belgium :

Provided always that the operation of the said Acts shall be and remain suspended within the Dominion of Canada so long as an Act of the Parliament of Canada passed in 1886,* and entitled "An Act respecting the Extradition of Fugitive Criminals," shall continue in force there, and no longer.

A. W. FitzRoy.

(d) Bolivia.

1898. No. 1065.

At the Court at Balmoral, the 20th day of October, 1898.

PRESENT :

The Queen's Most Excellent Majesty.

Duke of Fife.
Earl of Kintore.
Lord George Hamilton.

Whereas by the Extradition Acts 1870 to 1895† it was
* * * [*Here follows the first recital to the Order relating to Belgium, printed at p. 20 above, with the substitution of "Her Majesty" for "His Majesty."*]

And whereas a Treaty was concluded on the 22nd day of February, 1892, between Her Majesty and his Excellency the President of the Republic of Bolivia for the mutual extradition of fugitive criminals, which Treaty is in the terms following :—

"Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and his Excellency the President of the Republic of Bolivia, having judged it expedient, with a view to the better administration of justice and to the prevention of crime within the two countries and their jurisdictions, that persons

"Juzgando conveniente su Excelencia el Presidente de la Republica de Bolivia, y Su Majestad la Reina del Reino Unido de la Gran Bretaña é Irlanda, á objeto de una mejor administración de justicia y de impedir la perpetración de crímenes dentro de los dos países y sus jurisdicciones, que los individuos acusados ó con-

* "The Extradition Act" (Revised Statutes of Canada, c. 142).

† 33 & 34 Vict. c. 52; 36 & 37 Vict. c. 60; 58 & 59 Vict. c. 33.

charged with or convicted of the crimes or offences hereinafter enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up, have named as their Plenipotentiaries to conclude a Treaty (that is to say):

"Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Her *Chargé d'Affaires ad interim* Mr. George Jenner ;

"And his Excellency the President of the Republic of Bolivia, Señor Don José Manuel Braun, Envoy Extraordinary and Minister Plenipotentiary in Peru ;

"Who, after having communicated to each other their respective Full Powers, found in good and due form, have agreed upon and concluded the following Articles :—

" Article I.

"The High Contracting Parties engage to deliver up to each other, under certain circumstances and conditions stated in the present Treaty, those persons who, being accused or convicted of any of the crimes or offences enumerated in Article II, committed in the territory of the one Party, shall be found within the territory of the other Party.

" Article II.

"Extradition shall be reciprocally granted for the following crimes or offences :—

"1. Murder (including assassination, parricide, infanticide, poisoning), or attempt or conspiracy to murder.

"2. Manslaughter.

"3. Administering drugs or using instruments with intent to procure the miscarriage of women.

"4. Rape.

"5. Carnal knowledge or any attempt to have carnal knowledge of a girl under 16 years of age, if the evidence produced justifies commitment for those crimes according to the laws of both the Contracting Parties.

"6. Indecent assault.

"7. Kidnapping and false imprisonment, child-stealing.

"8. Abduction.

"9. Bigamy.

"10. Maliciously wounding or inflicting grievous bodily harm.

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victos de los crímenes ó delitos mas adelante enumerados, y que hayan huido de la justicia, sean reciprocamente entregados en ciertas circunstancias, han nombrado sus Plenipotenciarios para concluir un Tratado, á saber :

"Su Excelencia el Presidente de la Republica de Bolivia á su Enviado Extraordinario y Ministro Plenipotenciario en el Perú, Señor Don José Manuel Braun ;

"Y Su Majestad la Reina de Reino Unido de la Gran Bretaña é Irlanda á su Encargado de Negocios *ad interim* en la Republica del Perú, Señor Jorge Jenner ;

"Los cuales, despues de haberse comunicado sus respectivos poderes hallados en buena y debida forma, han convenido y concluido los Artículos siguientes :—

" Artículo I.

"Las Altas Partes Contratantes se comprometen á entregarse reciprocamente, en las circunstancias y condiciones expuestas en el presente Tratado, aquellas personas que, acusadas ó convictas de cualquiera de los crímenes ó delitos enumerados en el Artículo II, cometidos en el territorio de una de las Partes, fueran halladas dentro del territorio de la otra.

" Artículo II.

"La extradición se concederá reciprocamente por los siguientes crímenes ó delitos :—

"1. Asesinato (incluso el asesinato con violencia, parricidio, infanticidio, ó envenenamiento), ó la tentativa ó conspiración para asesinar.

"2. Homicidio.

"3. La administración de drogas ó el empleo de instrumentos con el proposito de procurar el aborto.

"4. Estupro.

"5. Conocimiento carnal ó las tentativas de tenerlo con una niña menor de diez y seis años, siempre que el testimonio aducido justifique el enjuiciamiento por esos crímenes, según las leyes de las dos Altas Partes Contratantes.

"6. Atentado contra el pudor.

"7. Robo y secuestro de un ser humano, sustracción de niño.

"8. Rapto.

"9. Bigamia.

"10. Lesiones ó daño corporal grave hecho intencionalmente.

"11. Assault occasioning actual bodily harm.

"12. Threats, by letter or otherwise, with intent to extort money or other things of value.

"13. Perjury, or subornation of perjury.

"14. Arson.

"15. Burglary or house-breaking, robbery with violence, larceny, or embezzlement.

"16. Fraud by a bailee, banker, agent, factor, trustee, director, member, or public officer of any Company, punishable with imprisonment for not less than one year by any law for the time being in force.

"17. Obtaining money, valuable security, or goods by false pretences; receiving any money, valuable security, or other property, knowing the same to have been stolen or unlawfully obtained.

"18.—(a.) Counterfeiting or altering money, or bringing into circulation counterfeited or altered money.

"(b.) Knowingly making without lawful authority any instrument, tool, or engine adapted and intended for the counterfeiting of the coin of the realm.

"(c.) Forgery, or uttering what is forged.

"19. Crimes against Bankruptcy Law.

"20. Any malicious act done with intent to endanger the safety of any person travelling or being upon a railway.

"21. Malicious injury to property, if such offence be indictable.

"22. Piracy, and other crimes or offences committed at sea against persons or things which, according to the laws of the High Contracting Parties, are extradition offences, and are punishable by more than one year's imprisonment.

"23. Dealing in slaves in such manner as to constitute a criminal offence against the laws of both States.

"The extradition is also to be granted for participation in any of

"11. Ataque á las personas del que resulte grave daño corporal.

"12. Amenazas, ya sea por medio de cartas ó de otra manera, con la intencion de sacar dinero ú otros objetos de valor.

"13. Perjurio, ó tentativas de conseguirlo.

"14. Incendio voluntario.

"15. Robo, ú otros crímenes ó tentativas cometidas con fractura, robo con violencia, hurto y malversacion de valores publicos ó particulares.

"16. Fraude cometido por un depositario, banquero, agente, comisionado, fideicomisario, director, miembro, ó empleado publico de cualquiera Compañia, siempre que sea considerado como crimen con pena no menor de un año de prision por una ley que esté en vigencia.

"17. El obtener dinero, garantías de valor, ó mercaderías, con pretextos falsos; recibir dinero, garantías de valor ú otros bienes, sabiendo que han sido robados ó habidos indebidamente.

"18.—(a.) Falsificacion ó alteracion de moneda, circulacion de moneda falsificada ó alterada.

"(b.) Fabricacion á sabiendas y sin autorizacion legal de cualquier instrumento, herramienta, ó aparato adaptado y destinado á la falsificacion de la moneda nacional.

"(c.) Falsificacion ó alteracion de firmas ó valores, ó circulacion de lo falsificado ó alterado.

"19. Crímenes contra las leyes de bancarrota.

"20. Cualquier acto hecho con intencion criminal, y que tenga por objeto poner en peligro la seguridad de una persona que se encuentre viajando en un ferrocarril, ó que se halle en él.

"21. Daño á la propiedad hecho con intencion criminal, siempre que la ofensa sea procesable.

"22. Pirateria, y otros crímenes ó delitos cometidos en el mar sobre las personas ó sobre las cosas, y que, segun las leyes respectivas de las dos Altas Partes Contratantes, sean delitos de extradicion y tengan mas de un año de pena.

"23. Trata de esclavos, de manera tal que constituya una ofensa criminal contra las leyes de ambos Estados.

"Debe tambien concederse la extradicion por la participacion en

the aforesaid crimes, provided such participation be punishable by the laws of both Contracting Parties.

"Extradition may also be granted at the discretion of the State applied to in respect of any other crime for which, according to the laws of both the Contracting Parties for the time being in force, the grant can be made.

" Article III.

"Either Government reserves the right to refuse or grant the surrender of its own subjects or citizens to the other Government.

" Article IV.

"The extradition shall not take place if the person claimed on the part of Her Majesty's Government; or the person claimed on the part of the Government of Bolivia, has already been tried and discharged or punished, or is still under trial in the territory of the Republic of Bolivia or in the United Kingdom respectively for the crime for which his extradition is demanded.

"If the person claimed on the part of Her Majesty's Government, or on the part of the Government of Bolivia, should be under examination for any other crime in the territory of the Republic of Bolivia or in the United Kingdom respectively, his extradition shall be deferred until the conclusion of the trial, and the full execution of any punishment awarded to him.

" Article V.

"The extradition shall not take place if, subsequently to the commission of the crime, or the institution of the penal prosecution or the conviction thereon, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the State applying or applied to.

"It shall likewise not take place when, according to the laws of either country, the maximum punishment for the offence is imprisonment for less than one year.

" Article VI.

"A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded

cualesquiera de los precitados crímenes, siempre que esa participacion sea punible por las leyes de ambas Partes Contratantes.

"Puede tambien concederse la extradicion segun lo juzque conveniente al Estado al que se hiciere el pedido con motivo de cualquier otro crimen que, segun las leyes que estén vigentes á la razon, dé lugar á ella.

" Artículo III.

"Cada una de las dos Altas Partes Contratantes se reserva el derecho de negar ó conceder la entrega de sus propios subditos ó ciudadanos.

" Artículo IV

"La extradicion no tendrá lugar si el individuo reclamado por el Gobierno de Su Majestad, ó el individuo reclamado por el Gobierno de Bolivia, ya hubiese sido enjuiciado y puesto en libertad ó castigado, ó continuará procesado en el territorio de la Republica de Bolivia ó en el Reino Unido respectivamente, por el crimen por el que se demande su extradicion.

"Si el individuo reclamado por el Gobierno de Su Majestad, ó por el Gobierno de Bolivia, estuviera detenido por cualquier otro crimen en el territorio de la Republica de Bolivia ó en el Reino Unido respectivamente, su extradicion será aplazada hasta la terminacion del juicio y la completa ejecucion del castigo que le fué impuesto.

" Artículo V.

"La extradicion no tendrá lugar si, despues de cometido el crimen ó de instituida la acusacion criminal ó de condenado el reo, surgiera la prescripcion, segun las leyes del Estado requerido ó requeriente.

"No tendrá igualmente lugar cuando, segun las leyes de cada pais, la mas alta pena del delito sea menor de un año de prision.

" Artículo VI.

"Un criminal fugado no será entregado si el delito por el cual se solicita su extradicion es de caracter

is one of a political character, or if he prove that the requisition for his surrender has, in fact, been made with a view to try or punish him for an offence of a political character.

" Article VII.

" A person surrendered can in no case be kept in prison or be brought to trial in the State to which the surrender has been made, for any other crime, or on account of any other matter, than those for which the extradition shall have taken place, until he has been restored, or has had an opportunity of returning, to the State by which he has been surrendered.

" This stipulation does not apply to crimes committed after the extradition.

" Article VIII.

" The requisition for extradition shall be made through the Diplomatic Agents of the High Contracting Parties respectively.

" The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition, and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there.

" If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent Court of the State that makes the requisition for extradition.

" A sentence passed *in contumaciam* is not to be deemed a conviction, but a person so sentenced may be dealt with as an accused person.

" Article IX.

" If the requisition for extradition be in accordance with the foregoing stipulations, the competent authorities of the State applied to shall proceed to the arrest of the fugitive.

" Article X.

" A fugitive criminal may be apprehended under a warrant issued by any Police Magistrate, Justice of

politico, ó si dicho criminal probase que el pedido de extradicion se ha hecho en realidad con la mira de enjuiciarlo ó castigarlo por un delito de caracter politico.

" Artículo VII.

" Un individuo entregado no puede en caso alguno ser detenido ni enjuiciado en el Estado al que se haga la entrega, por otro crimen ó por otros asuntos que no sean aquellos que hayan motivado la extradicion, hasta tanto que haya sido devuelto, ó haya tenido una oportunidad de regresar al Estado que lo entregare.

" Esta estipulacion no es aplicable á crímenes cometidos despues de la extradicion.

" Artículo VIII.

" La requisitoria de la extradicion se hará por los Agentes Diplomáticos de las Altas Partes Contratantes respectivamente.

" La requisitoria para la extradicion de un individuo acusado ha de ser acompañada de orden de prision, dada por autoridad competente del Estado que requiera la extradicion, y de aquellas pruebas que, segun las leyes del lugar donde sea hallado el acusado, justificarian su prision si el crimen hubiese sido cometido allí.

" Si la requisitoria se relaciona con persona ya condenada, deberá venir acompañada de la sentencia condenatoria dictada contra la persona condenada por el Tribunal competente del Estado que haga la requisitoria para la extradicion.

" Una sentencia dictada en rebeldia no ha de reputarse condenatoria; pero á una persona así sentenciada puede tratarse como á persona acusada.

" Artículo IX.

" Si la requisitoria para la extradicion está de acuerdo con las precedentes estipulaciones, las autoridades competentes del Estado requerido procederán á la prision del fugitivo.

" Artículo X.

" Puede prenderse á un criminal fugitivo en virtud de un mandato de prision, dictado por cualquier Juez •

the Peace, or other competent authority in either country, on such information or complaint, and such evidence, or after such proceedings, as would, in the opinion of the authority issuing the warrant, justify the issue of a warrant if the crime had been committed or the person convicted in that part of the dominions of the two Contracting Parties in which the Magistrate, Justice of the Peace, or other competent authority exercises jurisdiction; provided, however, that in the United Kingdom the accused shall, in such case, be sent as speedily as possible before a Police Magistrate in London. He shall, in accordance with this Article, be discharged, as well in the Republic of Bolivia as in the United Kingdom, if within the term of sixty days a requisition for extradition shall not have been made by the Diplomatic Agent of his country in accordance with the stipulations of this Treaty. The same rule shall apply to the cases of persons accused or convicted of any of the crimes or offences specified in this Treaty, and committed on the high seas on board any vessel of either country which may come into a port of the other.

" Article XI

"The extradition shall take place only if the evidence be found sufficient, according to the laws of the State applied to, either to justify the committal of the prisoner for trial, in case the crime had been committed in the territory of the same State, or to prove that the prisoner is the identical person convicted by the Courts of the State which makes the requisition, and that the crime of which he has been convicted is one in respect of which extradition could, at the time of such conviction, have been granted by the State applied to; and no criminal shall be surrendered until after the expiration of fifteen days from the date of his committal to prison to await the warrant for his surrender.

" Article XII.

"In the examinations which they have to make in accordance with the foregoing stipulations, the authorities

de Instruccion ó de Paz, ú otra autoridad competente en cualquiera de los dos paises, mediante aquellas pruebas, informes ó denuncias, y aquellos procedimientos, que en la opinion de la autoridad que dé el mandato justificarian análogo mandato si el crimen se hubiera cometido ó la persona hubiera sido condenada en aquella parte de los dominios de las dos Partes Contratantes donde ejerza jurisdiccion el Juez de Instruccion ó de Paz, ú otra autoridad competente; bajo la condicion, sin embargo, que en el Reino Unido el acusado ha de ser remitido en tal caso, á la mayor brevedad, á Londres, á disposicion de algun Juez de Instruccion. De conformidad con este Artículo, el acusado será puesto en libertad tanto en la Republica de Bolivia como en el Reino Unido, si dentro del plazo de sesenta dias no hubiera hecho una requisitoria para la extradicion el Agente Diplomático de su pais de acuerdo con las estipulaciones de este Tratado. La misma regla se aplicará á los casos de personas acusadas ó condenadas por cualquiera de los crímenes ó delitos especificados en el presente Tratado, y que se hubieran cometido en alta mar abordo de un buque de cualquiera de los dos paises que entrase en un puerto del otro.

" Artículo XI.

"Solo tendrá lugar la extradicion en el caso de hallarse suficiente el testimonio, segun las leyes del pais requerido, ya sea para justificar el enjuiciamiento en el caso de que se hubiera cometido el crimen en el territorio del mismo Estado, ya sea para comprobar la identidad del preso como la persona condenada por los Tribunales del Estado que hace la requisitoria, y que el crimen por el que se le haya condenada es de aquellos con motivo de los cuales podria, en la época de dicha condenacion, haberse concedido la extradicion por el Estado requerido; y ningun criminal será entregado hasta despues de pasados quince dias, contados desde la fecha de su encarceracion á esperar la orden para su entrega.

" Artículo XII.

"En los exámenes que deben practicar de conformidad con las precedentes estipulaciones, las auto-

of the State applied to shall admit as valid evidence the sworn depositions or statements of witnesses taken in the other State, or copies thereof, and likewise the warrants and sentences issued therein, and certificates of, or judicial documents stating the fact of a conviction, provided the same are authenticated as follows:—

"1. A warrant must purport to be signed by a Judge, Magistrate, or officer of the other State.

"2. Depositions, or affirmations, or the copies thereof, must purport to be certified, under the hand of a Judge, Magistrate, or officer of the other State, to be the original depositions or affirmations, or to be true copies thereof, as the case may require.

"3. A certificate of, or judicial document stating, the fact of a conviction must purport to be certified by a Judge, Magistrate, or officer of the other State.

"4. In every case such warrant, deposition, affirmation, copy, certificate, or judicial document must be authenticated either by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of the other State; but any other mode of authentication for the time being permitted by the law of the country where the examination is taken may be substituted for the foregoing.

" Article XIII.

"If the individual claimed by one of the High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers on account of other crimes or offences committed upon their respective territories, his extradition shall be granted to that State whose demand is earliest in date

" Article XIV.

"If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, or within such further time as the State applied to, or the proper Tribunal thereof, shall direct, the fugitive shall be set at liberty.

ridades del Estado requerido aceptarán como testimonio válido las deposiciones juramentadas ó las declaraciones de testigos tomadas en el otro Estado, ó copia de ellas, y tambien las ordenes de prision y sentencias allí dictadas y certificadas del hecho de una condena ó documentos judiciales que lo declaren, con tal que estén autenticados como sigue:—

"1. Una orden de prision debe parecer firmada por algun Juez, Magistrado, ó empleado del otro Estado.

"2. Las deposiciones, ó afirmaciones, ó las copias de estas, deben demostrar que certifican, mediante la firma de algun Juez, Magistrado, ó empleado del otro Estado, ser las deposiciones ó afirmaciones originales, ó copias fieles de ellas, segun lo requiere el caso.

"3. Un certificado del hecho de una condena ó documento judicial que la declare, debe demostrar que esta otorgada por algun Juez, Magistrado, ó empleado del otro Estado.

"4. En todos los casos dicha orden, deposicion, afirmacion, copia, certificado, ó documento judicial debe autenticarse, ya sea mediante juramento de algun testigo, ya sea mediante el sello oficial del Ministro de Justicia, ó de algun otro Ministro del otro Estado; pero cualquiera otra manera de autenticar que esté permitida á la sazón por la ley del país donde se practique el examen, puede sustituirse á las precedentes.

" Artículo XIII.

"Si el individuo reclamado por una de las Altas Partes Contratantes conforme al presente Tratado tambien lo fuera por otra ó otras Potencias con motivo de otros crímenes ó delitos cometidos en sus respectivos territorios, se concederá la extradición al Estado cuya requisición fuere de fecha mas antigua.

" Artículo XIV.

"Si no se exhibiera testimonio bastante para la extradición dentro de los dos meses después de la fecha en que se prendió al fugitivo, ó dentro del nuevo plazo que designe el Estado requerido ó el correspondiente Tribunal del mismo, el fugitivo será puesto en libertad

"Article XV.

"All articles seized which were in the possession of the person to be surrendered at the time of his apprehension shall, if the competent authority of the State applied to for the extradition has ordered the delivery of such articles, be given up when the extradition takes place; and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof of the crime.

"Article XVI.

"All expenses connected with extradition shall be borne by the demanding State.

"Article XVII.

"The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of Her Britannic Majesty, so far as the laws for the time being in force in such Colonies and foreign possessions respectively will allow.

"The requisition for the surrender of a fugitive criminal, who has taken refuge in any of such Colonies or foreign possessions, shall be made to the Governor or chief authority of such Colony or possession by the chief Consular officer of the Republic of Bolivia in such Colony or possession.

"Such requisition may be disposed of, subject always, so nearly as may be, and so far as the law of such Colony or foreign possession will allow, to the provisions of this Treaty, by the said Governor or chief authority, who, however, shall be at liberty either to grant the surrender or to refer the matter to his Government.

"Her Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of Bolivian criminals who may take refuge within such Colonies and foreign possessions, on the basis, so far as the law of such Colony or foreign possession will allow, of the provisions of the present Treaty.

"Requisitions for the surrender of a fugitive criminal emanating from any Colony or foreign possession of Her Britannic Majesty shall be governed by rules laid down in the preceding Articles of the present Treaty.

"Artículo XV.

"Todo objeto que esté en posesión del individuo que haya de entregarse y que se le tome al tiempo de prenderlo, será entregado al efectuarse la extradición a la autoridad competente del Estado requerido para la extradición ha ordenado la entrega de dichos objetos; y dicha entrega se hará extensiva no solo a los objetos robados, sino a cualquier otro que pueda servir de comprobante del crimen.

"Artículo XVI.

"Todos los gastos que ocasiona la extradición serán a cargo del Estado que la requiera.

"Artículo XVII.

"Las estipulaciones del presente Tratado se aplicarán a las Colonias y posesiones exteriores de Su Majestad Británica, en cuanto lo permitan las leyes que estén a la sazón en vigor en dichas Colonias y posesiones exteriores.

"La requisitoria para la entrega de un criminal fugitivo, refugiado en alguna de dichas Colonias ó posesiones exteriores, será hecha al Gobernador ó autoridad principal de dicha Colonia ó posesión por el Agente principal Consular de la República de Bolivia en dicha Colonia ó posesión.

"Conocerá de dicha requisitoria, sujetándose siempre, en cuanto lo exija, y en cuanto lo permitan las leyes de dicha Colonia ó posesión exterior, a las prescripciones de este Tratado, dicho Gobernador ó autoridad principal, el cual tendrá, sin embargo, la facultad ó bien de conceder la entrega ó de referir el asunto a su Gobierno.

"Su Majestad Británica tendrá, no obstante, la facultad de hacer arreglos especiales en las Colonias y posesiones exteriores Británicas para la entrega de criminales Bolivianos que se refugian en dichas Colonias y posesiones exteriores, sobre la base, en cuanto lo permita la ley de dicha Colonia ó posesión exterior, de las estipulaciones del presente Tratado.

"Las requisitorias para la entrega de un criminal fugitivo que emanan de alguna Colonia ó posesión exterior de Su Majestad Británica serán regidas por las reglas contenidas en los precedentes Artículos del presente Tratado.

"Article XVIII.

"The present Treaty shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties by a notice not exceeding one year, and not less than six months.

"The Treaty, after receiving the approval of the Congress of the Republic of Bolivia, shall be ratified, and the ratifications shall be exchanged at Lima as soon as possible.

"In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

"Done at Lima, on the twenty-second day of February, one thousand eight hundred and ninety-two.

"G. Jenner.
"J. M. Braun."

"Artículo XVIII.

"El presente Tratado entrará en vigor diez días después de publicado, conforme á las formas prescriptas por las leyes de las Altas Partes Contratantes. Podrá dárlo por terminado cualquiera de las Altas Partes Contratantes, previo aviso que no pase de un año y no bajo de seis meses.

"El Tratado, después de aprobado por el Congreso de la Republica de Bolivia, será ratificado, y las ratificaciones serán tangendas en Lima á la brevedad posible.

"En fé de lo cual los respectivos Plenipotenciarios lo han firmado, y le han puesto el sello de sus armas.

"Hecho en Lima, á los vientosidos días del mes de Febrero, de mil ocho cientos noventa y dos.

"J. M. Braun.
"G. Jenner."

And whereas the ratifications of the said Treaty were exchanged at Lima on the 7th day of March, 1898.

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and in virtue of the authority committed to Her by the said recited Acts, doth order, and it is hereby ordered, that from and after the 4th day of November, 1898, the said Acts shall apply in the case of Bolivia, and of the said Treaty with the President of the Republic of Bolivia.

Provided always that the operation of the said Acts shall be and remain suspended within the Dominion of Canada so long as an Act of the Parliament of Canada passed in 1886,* and entitled "An Act respecting the extradition of Fugitive Criminals," shall continue in force there, and no longer.

A. W. FitzRoy.

(e) Brazil.

At the Court at Balmoral, the 20th day of November, 1873.

PRESENT :

The Queen's Most Excellent Majesty in Council

Whereas * * * [*Here follows the first recital to the Order of March 17, 1874, relating to Austria-Hungary, printed at p. 11 above.*]

And whereas a Treaty was concluded on the thirteenth day of November, one thousand eight hundred and seventy-two, between Her Majesty and the Emperor of Brazil for the Mutual

* "The Extradition Act" (Revised Statutes of Canada, c. 142).

Extradition of Fugitive Criminals, which Treaty is in the terms following :—

"Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Majesty the Emperor of Brazil, having judged it expedient, with a view to the better administration of justice, and to the prevention of crime within their respective territories and jurisdictions, that persons accused, or convicted, of the crimes hereinafter enumerated, being fugitives from justice, should under certain circumstances be reciprocally delivered up, have resolved to name their Plenipotentiaries for the celebration of a Treaty for this purpose, that is to say :

"Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, George Buckley Mathew, Esquire, Companion of the Most Honourable Order of the Bath, Her Envoy Extraordinary and Minister Plenipotentiary to His Majesty the Emperor of Brazil ;

"And His Majesty the Emperor of Brazil, the Marquis of S. Vicente, a Counsellor of State, Dignitary of the Order of the Rose, Senator and Grandee of the Empire ;

"Who, having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles :—

"Article I.

"The High Contracting Parties engage to deliver up, reciprocally, those persons who, being accused or convicted of having committed crime in the territory of the one Party, shall be found within the territory of the other, under the circumstances and conditions that are laid down in the present Treaty.

"Article II.

"The crimes for which the extradition shall be granted are the following :—

"1. Murder, or attempt to murder.*

."2. Manslaughter.

"3. Illegal fabrication, counterfeiting, or falsification, uttering or

"Sua Magestade a Rainha do Reino Unido da Grã Bretanha e Irlanda, e Sua Magestade o Imperador do Brazil, julgando conveniente, com o fim de melhorar a administração da justiça e prevenir o crime dentro de seus respectivos territorios e jurisdiccoes, que as pessoas accusadas ou convictas dos crimes abaixo enumerados, refugiadas do alcance da justiça, sejam reciprocamente entregues, mediante certas circunstancias, resolverão nomear seus Plenipotenciarios para a celebração de um Tratado com esse objecto, a saber :—

"Sua Magestade a Rainha do Reino Unido da Grã Bretanha e Irlanda, o Senhor George Buckley Mathew, Cavalleiro da muito honrada Ordem do Banho, Seu Enviado Extraordinario e Ministro Plenipotenciario junto de Sua Magestade o Imperador do Brazil ;

"E Sua Magestade o Imperador do Brazil, o Marquez de S. Vicente, Conselheiro d'Estado Dignitario da Ordem da Rosa, Senador e Grande do Imperio ;

"Os quaes, depois de terem communicado seus respectivos plenos poderes, achados em bõa e devida forma, ajustarão e acordarão nos seguintes Artigos :—

"Artigo I.

"As Altas Partes Contractantes se obrigão a entregar reciprocamente os individuos que sendo accusados ou convictos de ter cometido crime no territorio de uma dellas, forem encontrados no territorio da outra, mediante as circunstancias e condições que são estabelecidas no presente Tractado.

"Artigo II.

"Os crimes pelos quaes se deverá conceder a extradição são os seguintes :—

"1. Homicidio sujeito á pena de morte ('murder'), e tentativa d'elle.*

"2. Homicidio ('manslaughter').

"3. Fabricação illegal, contrafacção ou falsificação de moeda,

* Qualified as regards infanticide by Declaration of November 13, 1872, printed at p. 47 below.

bringing into circulation counterfeit or falsified money.

"4. Forgery, or imitation, counterfeiting or falsification, of any document or paper, comprising the crimes designated in the criminal code of Brazil as imitation, counterfeiting, or falsification of paper money, notes of banks, or other securities public or private, as well as the intentional use or the bringing into circulation of any papers imitated, counterfeited, or falsified.

"5. The purloining, or embezzlement, of moneys or effects, public or private, by abuse of confidence.

"6. Frauds, or false or fraudulent pretences, to obtain moneys or effects from another.

"7. Bankruptcies subject to criminal prosecution, according to the laws applicable thereunto.

"8. Malversation, or fraud, committed by a bailee, banker, agent, factor, trustee, or director, or member, or officer, of any Company, made criminal by any law in force.

"9. Rape, by force or threats.

"10. Abduction.

"11. Child-stealing.

"12. House-breaking, with intent to steal, or to commit other crimes.

"13. Crimes resulting from the act of wilfully setting fire to a house, or to buildings connected therewith, to the prejudice of another.

"14. Robbery with violence.

"15. Piracy according to the law of nations.

"16. Sinking or destroying a vessel on the high seas, or the attempt to perpetrate such acts.

"17. Crimes arising from assault on board a ship on the high seas, with intent to cause death, or grievous bodily injuries.

"18. Crimes arising from the revolt of two or more persons on board a ship on the high seas, against the authority of the captain.

"19. Extradition will also take place for participation in any of the above-named crimes, provided that such participation shall be punishable by the laws of both the States of the High Contracting Powers.

emitir ou introduzir na circulação moeda contrafeita ou falsificada.

"4. O crime de falsidade, ou imitação, contrafacção, ou falsificação de qualquer documento ou papel, comprehendendo os crimes designados na lei criminal do Brazil, de imitação, contrafacção, ou falsificação do papel moeda, notas dos bancos, ou outros títulos publicos ou particulares; assim como o uso premeditado ou introdução na circulação de quaesquer papies imitados contrafeitos ou falsificados.

"5. Subtração, ou extravio, de dinheiros ou valores publicos ou particulares, com abuso da confiança.

"6. Artificios, ou pretextos falsos ou fraudulentos, para aquisição de dinheiros ou valores de outrem.

"7. Crimes de banca rota sujeitos ao processo criminal na forma das leis que lhes são applicaveis.

"8. Malversação ou fraude commettida por depositario, banqueiro, agente, corrector, curador, director, membro, ou empregado de alguma companhia, considerada crime por lei em vigor.

"9. Dedoração ou violação ("rape") por violencia ou ameaças.

"10. Rapto violento.

"11. Subtração de criança.

"12. Arrombamento de casa com o fim de roubar ou para commetter outro crime.

"13. Crimes resultantes do incendio voluntario de uma casa, ou de edificios connexos com ella, em prejuizo de outrem.

"14. Roubo.

"15. Pirataria segundo o direito das gentes.

"16. Destruição de navio no alto mar, ou facto de mettel-o a pique, ou tentativa de taes actos.

"17. Crimes resultantes de assalto a bordo de um navio no alto mar, com intenção de causar a morte, ou graves offensas physicas.

"18. Crimes resultantes da revolta por duas ou mais pessoas de bordo de um navio em alto mar contra a auctoridade do capitão.

"19. A extraditção terá tambem lugar por cumplicidade em algum dos crimes acima declarados, naves que tal cumplicidade seja punivel pelas leis de ambas os Estados das Altas Partes Contractantes.

" Article III.

"No British subject shall be delivered up by the Government or authorities of the United Kingdom to the Government or authorities of the Empire; and in like manner no Brazilian subject shall be delivered up by the Government or authorities of the Empire to the Government or authorities of the United Kingdom.

"If, however, the person who has taken refuge in the territory of the other High Contracting Party shall have become naturalized there after the perpetration of the crime, such naturalization shall not be an obstacle to his extradition according to the stipulations of this Treaty.

" Article IV.

"The extradition shall not take place if the person claimed has already been tried and acquitted, or punished, or if he is under trial, for the same crime for which extradition is asked. If he should be under trial for any other crime, his extradition shall be deferred until the conclusion of the trial, and the fulfilment of the punishment, when such may have been awarded.

" Article V.

"The extradition shall also not take place if, after the perpetration of the crime, or the institution of the penal prosecution, or the conviction thereof, the refugee shall have acquired exemption from prosecution, or punishment, by lapse of time, according to the laws of the State appealed to.

" Article VI.

"The person claimed shall not be delivered up for crimes of a political character, and when he shall have been delivered up on other grounds he shall not be punished for anterior political crimes. He shall not, moreover, be delivered up if he can clearly prove that the requisition is made with the object of trying him, or of punishing him, for a political crime.

" Article VII.

"A person surrendered cannot be kept in prison, or brought to trial, in the State to which the

" Artigo III.

"Nem um subdito Britannico será entregue pelo Governo ou auctoridades do Reino Unido ao Governo ou auctoridades do Imperio, e semelhantemente nem um subdito Brasileiro será entregue pelo Governo ou auctoridades do Imperio ao Governo ou auctoridades do Reino Unido.

"Entretanto si o refugiado no territorio da outra Alta Parte Contractante ahi se tivesse naturalizado depois da perpetração do crime, tal naturalização não servirá de obstaculo a extradição segundo as estipulações deste Tractado.

" Artigo IV.

"A extradição não terá logar si o individuo reclamado já tiver sido processado, e absolvido, ou punido, ou si estiver sendo processado, pelo mesmo crime pelo qual se pede a extradição. Si estiver sendo processado por outro qualquer crime, a sua extradição será demorada até a conclusão do processo, e cumprimento da pena, quando lhe tenha sido imposta.

" Artigo V.

"A extradição não terá também logar, si depois da perpetração do crime, ou da instauração do processo criminal, ou da sentença condemnatoria, tiver o refugiado adquirido, por meio da prescrição, segundo as leis do paiz ao qual se fez o pedido, a isenção da accusação ou da punição.

" Artigo VI.

"O reclamado não será entregue por crimes de caracter politico, e quando for entregue por outros fundamentos não poderá ser punido por crimes politicos anteriores. Não será também entregue si elle evidentemente provar que a requisição é feita com o fim de processal-o ou punil-o por crime politico.

" Artigo VII.

"O individuo entregue não poderá ser conservado preso ou submettido a processo no Estado.

surrender is made, for any other crime, or on account of any other matters, than those for which the extradition has been granted. This statement is not applicable to crimes committed after the extradition.

" Article VIII.

" If the person whose extradition is demanded by one of the High Contracting Parties shall be also claimed by one or more other Governments, on account of crimes committed in their respective territories, the following rule shall be observed:

" If he shall be a subject of the High Contracting Party who claims him, the surrender shall be made to it. If he be not so, the other High Contracting Party shall have the power of delivering him up to the reclaiming Government which in the case in question may appear to the former best entitled to the preference.

" Article IX.

" A requisition for extradition shall be made through the respective Diplomatic Agents of the High Contracting Powers.

" When it relates to a person accused only, it must be accompanied by the warrant of arrest, issued by the competent authority of the State applying for it, and by such evidence as according to the laws of the place where the accused is found, would justify the arrest if the crime was there committed.

" If the extradition refers to a person already convicted, the application must be accompanied by a copy of the sentence of condemnation, passed against him, given by a competent Tribunal of the State making the requisition.

" The requisition cannot, however, be founded on a sentence passed in *contumaciam*, that is to say, when the delinquent has not been personally cited to defend himself.

" Article X.

" If the requisition has been in conformity with the foregoing stipulations, the competent authorities of the State to which it has been addressed shall proceed

ao qual se faz a entrega por outro crime, ou em virtude de outras causas que não sejam aquellas pelas quacs se concedem a extradição. Esta estipulação não é applicavel aos crimes commettidos depois da extradição.

" Artigo VIII.

" Si o individuo cujá extradição uma das Altas Partes Contractantes pedir, for igualmente reclamado por outro ou outros Governos, em consequencia de crimes commettidos nos seus respectivos territorios, observar-se ha o seguinte:

" Si for subdito da Alta Parte Contractante que o reclamar, a entrega será feita á ella. Si não for, a outra Alta Parte Contractante terá a faculdade de entregal-o ao Governo relamante que no caso dado lhe pareça que deve ter a preferencia.

" Artigo IX.

" A requisição para a extradição será feita por intermedio dos respectivos Agentes Diplomaticos das Altas Partes Contractantes.

" Si ella referir-se a um individuo sómente accusado, devrá ser acompanhada do mandado de prisão expedido pela autoridade competente do Estado que a solicitar, e de provas que segundo as leis do logar onde o accusado for encontrado justificassem a captura quando o crime fosse ahí commettido.

" Si a extradição referir-se a um individuo já sentenciado, o pedido deverá ser acompanhado do traslado da sentença condemnatoria expedida contra elle pelo Tribunal competente do Estado que fizer a requisição.

" A reclamação não pode porem ser fundada em sentença proferida in *contumaciam*, isto é, quando o reo não for pessoalmente citado para defender-se.

" Artigo X.

" Si a requisição estiver de conformidade com as anteriores estipulações, a autoridade competente do Estado a que ella se tiver dirigido procederá á captura da

to the capture of the refugee. The prisoner shall be brought before a competent authority, who is to examine him and conduct the preliminary investigations of the case just as if the apprehension had taken place for crime committed in the same country.

“ Article XI.

“ The extradition shall in no case take place before the expiration of fifteen days counted from the apprehension, and after that delay it shall only be carried out when the evidence has been found sufficient according to the laws of the country applied to, either for subjecting the prisoner to trial if the crime had been there committed, or to prove the identity of the person convicted and condemned by the Tribunals of the State making the requisition.

“ Article XII.

“ In the examinations which are to be made in conformity with the foregoing stipulations, the authorities of the State to which application is made, shall admit as valid evidence the sworn depositions or declarations of witnesses, which were taken in the other State, or the respective copies thereof as well as the judicial documents, warrants, or sentences, transmitted therefrom, provided they are signed or certified by the hand of the judge, magistrate, or public officer of that State, and authenticated, either by the oath of some witness, or by the official seal of the Minister of Justice or some other Minister of State.

“ Article XIII.

“ If within two months counting from the date of arrest, sufficient evidence for the extradition shall not have been presented, the person arrested shall be set at liberty. He shall likewise be set at liberty if, within two months of the day on which he was placed at the disposal of the Diplomatic Agent, he shall not have been sent off to the reclaiming country.

“ Article XIV.

“ All the articles found in the possession of the person demanded, at the time of his apprehension,

refugiado. O preso será levado á presença da autoridade competente, que terá de examinal-o, e de dirigir as investigações preliminares do caso como si a captura fosse effectuada por crime commettido no mesmo paiz.

“ Artigo XI.

“ A extradição nunca terá logar antes da expiração de 15 dias contados da captura, e depois d'esse prazo só se effectuará quando as provas forem julgadas sufficientes segundo as leis do paiz á que for pedida, ou seja para sujeitar o preso á processo si o crime fosse ahí commettido, ou seja para justificar a identidade da pessoa convicta e condemnada pelos tribunaes do Estado que fez a requisição.

“ Artigo XII.

“ Nos exames á que se tiver de proceder de conformidade com as precedentes estipulações, as autoridades do Estado, á que se fez o pedido, admittirão como provas os depoimentos sob juramento, ou as declarações, das testemunhas, que forão tomadas no outro Estado ou as respectivas copias, assim como os documentos judiciais, mandados, ou sentenças, expedidos d'alli, com tanto que sejam assignados ou legalizados pela propria mão do juiz, magistrado ou empregado publico d'aquelle Estado, e authenticados ou por juramento de alguma testemunha ou com o sello official do Ministro da Justiça, ou de qualquer outro Ministro d'Estado.

“ Artigo XIII.

“ Si dentro de dous mezes contados da data da captura, não forem apresentadas provas sufficientes para que se realice a extradição, o preso será posto em liberdade. Tambem será posto em liberdade si, dentro de dous mezes contados do dia em que for declarado que está á disposição do Agente Diplomatico, este não o tiver remettido para o Estado reclamante.

“ Artigo XIV.

“ Todos os objectos encontrados em poder do individuo reclamado, ao tempo de sua prisão, serão

shall be seized in order to their delivery with him, when his extradition shall take place.

"This delivery shall not be limited to effects or articles robbed, stolen, or obtained by other crimes, but shall extend to all that might serve as evidence of the crime; it shall be made even when the extradition could not be made after orders to that effect, on account of the flight or death of the person claimed.

" Article XV.

"The High Contracting Parties renounce whatever claims they may have for the reimbursement of the expenses incurred for the apprehension and maintenance of the persons to be delivered up, and for their conveyance until they shall be placed on board ship, as they agree to defray these outgoings in their respective countries.

" Article XVI.

"The stipulations of the present Treaty shall apply to the colonies and other possessions of Her Britannic Majesty.

"The requisition for the surrender shall be made to the Governor, or to the chief authority, in the Colony or Possession, by the highest Consular Agent of Brazil.

"The surrender shall be made by the Governor or the chief authority, who shall, however, have the power either to make it, or to refer the matter to his Government.

"Both in the requisitions and in the surrender, the conditions established by the foregoing Articles of this Treaty shall be, as far as may be possible, adhered to.

"As Her Britannic Majesty has the power to adopt special arrangements in the Colonies and possessions, respecting the delivering up of delinquents, Her Majesty will facilitate the reclamations of Brazil in this respect, as far as may be possible, with due regard, however, to the provisions of this Treaty.

" Article XVII.

"The present Treaty shall come into force ten days after its publication, and in conformity with the forms prescribed by the laws of the

apprehendidos afim de serem entregues com o individuo quando se verifique sua extradição.

"Esse entrega não se limitará ás propriedades ou artigos furtados, roubados, ou obtidos por outros crimes, mas se estenderá á tudo quanto possa servir para a prova do crime; ella terá lugar ainda quando a extradição depois de ordenada não se possa verificar por fuga ou morte do individuo reclamado.

" Artigo XV.

"As Altas Partes Contractantes renuncião quesequer reclamações que tenham por fim o reembolso das despesas feitas com a prisão e manutenção dos individuos que tem de ser entregues, e com a sua condução até serem postos á bordo, por isso que concordão fazer essas despesas em seus paizes reciprocamente.

" Artigo XVI.

"As estipulações do presente Tractado serão applicaveis ás colonias e outras possessões de Sua Magestade Britannica.

"A requisição para a entrega será feita ao Governador, ou á auctoridade principal, da colonia ou possessão, pelo respective Agente Consular mais graduado do Imperio do Brazil.

"A entrega será feita pelo Governador ou auctoridade principal, a qual todavia terá faculdade de realisal-a, ou de submetter o assumpto ao seu Governo.

"Tanto na requisição como na entrega, observarse ha, quanto possivel, as regras estabelecidas nos precedentes Artigos deste Tractado.

"Como sua Magestade Britannica tem a faculdade de adoptar disposições especiaes quanto ás colonias e possessões, em relação á entrega de delinquentes, Sua Magestade facilitará as reclamações do Brazil a semelhante respeito, quanto possivel, cingindo-se todavia as bases deste Tractado.

" Artigo XVII.

"O presente Tractado começará á vigorar dez dias depois de sua publicação, e de conformidade com as formulas prescriptas pelas leis

countries of the High Contracting Parties. It will remain in force until one of these shall give notice for its termination, but it shall then remain in force for six months, counted from the day of this notification.

"This Treaty shall be ratified, and the ratifications exchanged in Rio de Janeiro, within three months, or sooner if possible.

"In witness whereof the respective Plenipotentiaries have signed the present Treaty, and have affixed thereto the seal of their arms.

"Done at Rio de Janeiro, on the thirteenth day of the month of November, of the year of Our Lord Jesus Christ one thousand eight hundred and seventy-two.

"(L.s.) *George Buckley Mathew.*

"(L.s.) *Marquês De S. Vicente.*"

"The Undersigned, Plenipotentiaries of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and of His Majesty the Emperor of Brazil, charged with making a Treaty for the extradition of criminals, upon which they have at this present agreed, having met in conference, took into their consideration the following subjects:—

"They directed their attention to the fact that the criminal law of England punishes the crime of infanticide with the same penalty as that of murder, when accompanied by corresponding circumstances, and that it results therefrom that extradition should take place even for attempting to commit that crime.

"On the other hand, they observed, that according to the Brazilian law, infanticide is not punished as murder, nor even as manslaughter, but as a crime distinct from both, and by a minor punishment, and that consequently extradition should not take place for the attempt.

"They consequently resolved to declare that extradition shall solely take place for the crime of infanticide, and not for an attempt to commit that crime.

"With this declaration they agreed to close this conference, from which the present Protocol emanates, which being found in

dos Estados das Altas Partes Contractantes. Elle perdurará até que qualquer d'ellas denuncie a sua cessação, mais ainda então terá vigor por seis mezes contados do dia de tal notificação.

"Este Tractado sera ratificado, e as ratificações trocadas no Rio de Janeiro dentro de tres mezes, ou antes si for possível.

"Em testemunho do que os respectivos Plenipotenciarios assignarão o presente Tractado, e lhe pozerão o sello de suas armas.

"Feito no Rio de Janeiro aos treze dias do mez de Novembro do anno de Nosso Senhor Jesus Christo de mil oitocentos e setenta e dois.

"(L.s.) *George Buckley Mathew.*

"(L.s.) *Marquês De S. Vicente.*"

"Reunidos em conferencia os Plenipotenciarios de Sua Magestade a Rainha do Reino Unido da Grã Bretanha e Irlanda, e de Sua Magestade o Imperador do Brazil, abaixo assignados, encarregados de ajustar um Tractado de extradição de delinquentes, em que nesta data accordarão, tomarão em consideração a seguinte materia:

"Ponderou-se que a lei criminal Ingleza pune o crime de infanticidio com a mesma pena do crime de *murder*, quando acompanhado das circumstancias desta, e que dahi resulta ter lugar a extradição mesmo por tentativa.

"Por outra lado ponderou-se que segundo a lei Brasileira, o infanticidio não é punido como o homicidio sujeito á pena de morte, nem mesmo como homicidio, sim como crime distincto d'elles, e com pena menor, e que consequentemente não deve ter lugar a extradição por tentativa.

"Resolverão pois declarar que a extradição só poderá verificar-se pelo crime de infanticidio, e não pela tentativa d'elle.

"Com esta declaração entenderão terminar esta conferencia, da qual se lavrou o presente Protocollo, que depois de achar-se conforme foi

conformity, was signed, each having assignedo, ficando cada um com o a copy thereof. seu exemplar.

"Done in the city of Rio de Janeiro, the thirteenth day of November of 1872. "Feito na Corte de Rio de Janeiro aos treze dias de Novembro de 1872.

"(L.S.) *George Buckley Mathew.*

"(L.S.) *George Buckley Mathew.*

"(L.S.) *Marquez De S. Vicente.*"

"(L.S.) *Marquez De S. Vicente.*"

And whereas the ratifications of the said Treaty were exchanged at Rio de Janeiro on the twenty-eighth day of August last :

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and in virtue of the authority committed to Her by the said recited Act, doth order, and it is hereby ordered, that from and after the first day of December, one thousand eight hundred and seventy-three, the said Act shall apply in the case of the said Treaty with the Emperor of Brazil.

Edmund Harrison.

(f) *Chile.*

1898. No. 597.

At the Court at Osborne House, Isle of Wight, the 9th day of August, 1898.

PRESENT :

The Queen's Most Excellent Majesty.

Lord Privy Seal.

Lord James of Hereford.

Sir Fleetwood Edwards.

Whereas by the Extradition Acts 1870 to 1895 * it was * * * [*Here follows the first recital to the Order relating to Belgium, printed at p. 20 above, with the substitution of "Her Majesty" for "His Majesty."*]

And whereas a Treaty was concluded on the 26th day of January, 1897, between Her Majesty and the President of the Republic of Chile for the mutual extradition of fugitive criminals, which Treaty is in the terms following :—

“ Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Excellency the President of the Republic of Chile, having determined, by common consent, to conclude a Treaty for the extradition of criminals, have accordingly named as their Plenipotentiaries :

“ Su Majestad la Reina del Reino Unido de Gran Bretaña e Irlanda, i su Excelencia el Presidente de la República de Chile, habiendo resuelto, de comun acuerdo, ajustar un Tratado para la estradicion de los malhechores, han nombrado, a este efecto, Plenipotenciarios :

“ Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, John G. Kennedy, Esq., Minister Resident of Great Britain in Chile; and his Excellency the President of the Republic of Chile, Señor Don Carlos Morla Vicuña, Minister of Foreign Affairs; who, after having exhibited to each other their respective Full Powers, and found them in good and due form, have agreed upon the following Articles :—

“ Su Majestad la Reina del Reino Unido de Gran Bretaña e Irlanda, al Señor John G. Kennedy, Ministro Residente de Gran Bretaña en Chile; i su Excelencia el Presidente de la República de Chile, al Señor Don Carlos Morla Vicuña, Ministro de Relaciones Exteriores, los cuales Plenipotenciarios, despues de haberse exhibido sus Poderes, i de haberlos encontrado en buena i debida forma, han convenido en los Articulos siguientes :—

“ Article I.

“ The High Contracting Parties engage to deliver up to each other, under certain circumstances and conditions stated in the present Treaty, those persons who, being accused or convicted of any of the crimes or offences enumerated in Article II, committed in the territory of the one Party, shall be found within the territory of the other Party.

“ Artículo I.

“ Las Altas Partes Contratantes se comprometan a entregarse reciprocamente, en las circunstancias i condiciones espuestas en el presente Tratado, aquellas personas que, acusadas o convictas de cualquiera de los crímenes o delitos enumerados en el Artículo II, cometidos en el territorio de una de las Partes, fueran halladas dentro del territorio de la otra.

“ Article II.

“ Extradition shall be reciprocally granted for the following crimes or offences :—

“ Artículo II.

“ La estradicion se concederá reciprocamente por los siguientes crímenes o delitos :—

“ 1. Murder (including assassination, parricide, infanticide, poisoning), or attempt or conspiracy to murder.

“ 1. Asesinato (incluso el asesinato con violencia, parricidio, infanticidio, o envenenamiento), o la tentativa o conspiracion para asesinar.

- "2. Manslaughter.
- "3. Administering drugs or using instruments with intent to procure the miscarriage of women.
- "4. Rape.
- "5. Carnal knowledge or any attempt to have carnal knowledge of a girl under 14 years of age, if the evidence produced justifies committal for those crimes according to the laws of both the Contracting Parties.
- "6. Indecent assault.
- "7. Kidnapping and false imprisonment, child stealing.
- "8. Abduction.
- "9. Bigamy.
- "10. Maliciously wounding or inflicting grievous bodily harm.
- "11. Assault occasioning actual bodily harm.
- "12. Threats, by letter or otherwise, with intent to extort money or other things of value.
13. Perjury, or subornation of perjury.
- "14. Arson.
- "15. Burglary or house-breaking, robbery with violence, larceny, or embezzlement.
- "16. Fraud by a bailee, banker, agent, factor, trustee, director, member, or public officer of any company, punishable with imprisonment for not less than one year by any law for the time being in force.
- "17. Obtaining money, valuable security, or goods by false pretences: receiving any money, valuable security, or other property, knowing the same to have been stolen or unlawfully obtained.
- "18.—(a.) Counterfeiting or altering money or bringing into circulation counterfeited or altered money.
- "(b.) Knowingly making without lawful authority any instrument, tool, or engine adapted and intended for the counterfeiting of the coin of the realm.
- "(c.) Forgery, or uttering what is forged.
- "19. Crimes against bankruptcy law.
- "2. Homicidio.
- "3. La administracion de drogas o el empleo de instrumentos con el propósito de procurar el aborto.
- "4. Estupro.
- "5. Conocimiento carnal o las tentativas de tenerlo con una niña menor de catorce años, siempre que el testimonio aducido justifique el enjuiciamiento por esos crímenes, segun las leyes de las dos Altas Partes Contratantes.
- "6. Atentado contra el pudor.
- "7. Robo i secuestro de un ser humano, sustraccion de niño.
- "8. Rapto.
- "9. Bigamia.
- "10. Lesiones o daño corporal grave hecho intencionalmente.
- "11. Ataque a las personas del que resulte grave daño corporal.
- "12. Amenazas, ya sea por medio de cartas, o de otra manera, con la intencion de sacar dinero u otros objetos de valor.
- "13. Perjurio, o tentativas de conseguirlo.
- "14. Incendio voluntario.
- "15. Robo, u otros crímenes, o sus tentativas, cometidos con fractura, robo con violencia, hurto i malversacion de valores públicos o particulares.
- "16. Fraude cometido por un depositario, banquero, agente, comisionado, fidei-comisario, director, miembro o empleado público de cualquiera Compania, siempre que sea considerado como crimen con pena no menor de un año de prision por una lei que esté en vijencia.
- "17. El obtener dinero, garantias de valor, o mercaderías, con pretextos falsos; el recibir dinero, garantias de valor u otros bienes, sabiendo que han sido robados o habidos indebidamente.
- "18.—(a.) Falsificacion o alteracion de moneda, circulacion de moneda falsificada o alterada.
- "(b.) Fabricacion a sabiendas i sin autorizacion legal de cualquier instrumento, herramienta, o aparato adaptado i destinado a la falsificacion de moneda nacional.
- "(c.) Falsificacion o alteracion de firmas o valores, o circulacion de lo falsificado o alterado.
- "19. Crímenes contra las leyes de bancarrota:

" 20. Any malicious act done with intent to endanger the safety of any persons travelling or being upon a railway.

" 21. Malicious injury to property, if such offence be indictable.

" 22. Piracy and other crimes or offences committed at sea against persons or things which, according to the laws of the High Contracting Parties, are extradition offences, and are punishable by more than one year's imprisonment.

" 23. Dealing in slaves in such manner as to constitute a criminal offence against the laws of both States.

"The extradition is also to be granted for participation in any of the aforesaid crimes, provided such participation be punishable by the laws of both Contracting Parties.

"Extradition may also be granted at the discretion of the State applied to in respect of any other crime for which, according to the law of both the Contracting Parties for the time being in force, the grant can be made.

" Article III.

"Each party reserves the right to refuse or grant the surrender of its own subjects or citizens to the other party.

" Article IV.

"The extradition shall not take place if the person claimed on the part of Her Majesty's Government, or the person claimed on the part of the Government of Chile, has already been tried and discharged or punished, or is still under trial in the territory of the Republic of Chile or in the United Kingdom respectively, for the crime for which his extradition is demanded.

"If the person claimed on the part of Her Majesty's Government, or on the part of the Government of Chile, should be under examination for any other crime in the territory of the Republic of Chile or in the United Kingdom respectively, his extradition shall be deferred until the conclusion of the trial, and the full execution of any punishment awarded to him.

" 20. Cualquier acto hecho con intencion criminal, i que tenga por objeto poner en peligro la seguridad de una persona que se encuentre viajando en un ferrocarril o que se halle en él.

" 21. Daño a la propiedad hecho con intencion criminal siempre que la ofensa sea procesable.

" 22. Piratería, i otros crímenes ó delitos cometidos en el mar sobre las personas o sobre las cosas, i que, segun las leyes respectivas de las dos Altas Partes Contratantes, sean delitos de estradicion i tengan mas de un año de pena.

" 23. Trata de esclavos, de manera tal que constituya una ofensa criminal contra las leyes de ambos Estados.

"Debe tambien concederse la estradicion por la participacion en cualesquiera de los precitados crímenes, siempre que esa participacion sea punible por las leyes de ambas Partes Contratantes.

"Puede tambien concederse la estradicion segun lo juzgue conveniente el Estado al que se hiciere el pedido con motivo de cualquier otro crimen que, segun las leyes que estén vijentes a la sazón, dé lugar a ella.

" Artículo III.

"Cada una de las dos Altas Partes Contratantes se reserva el derecho de negar ó conceder la entrega de sus propios súbditos o ciudadanos.

" Artículo IV.

"La estradicion no tendrá lugar si el individuo reclamado por el Gobierno de Su Majestad, ó el individuo reclamado por el Gobierno de Chile, ya hubiese sido enjuiciado i puesto en libertad o castigado, o continuará procesado en el territorio de la República de Chile ó en el Reino Unido respectivamente, por el crimen por el que se demande su estradicion.

"Si el individuo reclamado por el Gobierno de Su Majestad, ó por el Gobierno de Chile, estuviera detenido por cualquier otro crimen en el territorio de la República de Chile o en el Reino Unido respectivamente, su estradicion será aplazada hasta la terminacion del juicio i la completa ejecucion del castigo que le fué impuesto.

" Article V.

"The extradition shall not take place if, subsequently to the commission of the crime, or the institution of the penal prosecution or the conviction thereon, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the State applying or applied to.

"It shall likewise not take place when, according to the law of either country, the maximum punishment for the offence is imprisonment for less than one year.

" Article VI.

"A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he proves that the requisition for his surrender has, in fact, been made with a view to try or punish him for an offence of a political character.

" Article VII.

"A person surrendered can in no case be kept in prison or be brought to trial in the State to which the surrender has been made, for any other crime, or on account of any other matters, than those for which the extradition shall have taken place, until he has been restored, or has had an opportunity of returning to the State by which he has been surrendered.

"This stipulation does not apply to crimes committed after the extradition.

" Article VIII.

"The requisition for extradition shall be made through the Diplomatic Agents of the High Contracting Parties respectively.

"The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition, and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there.

"If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent Court of the State that makes the requisition for extradition.

" Artículo V.

"La extradición no tendrá lugar si, después de cometido el crimen ó de instituida la acusación criminal ó de condenado el reó, surgiera la prescripción, según las leyes del Estado requerido ó requeriente.

"No tendrá igualmente lugar cuando, según la ley de cada país, la mas alta pena del delito sea menor de un año de prisión.

" Artículo VI.

"Un criminal fugado no será entregado si el delito por el cual se solicita su extradición es de carácter político, o si dicho criminal prueba que el pedido de extradición se ha hecho en realidad con la mira de enjuiciarlo o castigarlo por un delito de carácter político.

" Artículo VII.

"Un individuo entregado no puede en caso alguno ser detenido ni enjuiciado en el Estado al que se haga la entrega, por otro crimen o por otros asuntos que no sean aquellos que hayan motivado la extradición, hasta tanto que haya sido devuelto, o haya tenido una oportunidad de regresar al Estado que lo entregare.

"Esta estipulación no es aplicable a crímenes cometidos después de la extradición.

" Artículo VIII.

"La requisitoria para la extradición se hará por los Agentes Diplomáticos de las Altas Partes Contratantes respectivamente.

"La requisitoria para la extradición de un individuo acusado ha de ser acompañada de orden de prisión, dada por autoridad competente del Estado que requiera la extradición, i de aquellas pruebas que, según las leyes del lugar donde sea hallado el acusado, justificarian su prisión si el crimen hubiese sido cometido allí.

"Si la requisitoria se relaciona con persona ya condenada, deberá venir acompañada de la sentencia condenatoria dictada contra la persona condenada por el Tribunal competente del Estado que haya la requisitoria para la extradición.

"A sentence passed in *contumacia* is not to be deemed a conviction, but a person so sentenced may be dealt with as an accused person.

"Article IX.

"If the requisition for extradition be in accordance with the foregoing stipulations, the competent authorities of the State applied to shall proceed to the arrest of the fugitive.

"Article X.

"A criminal fugitive may be apprehended under a warrant issued by any Police Magistrate, Justice of Peace, or other competent authority in either country, on such information or complaint, and such evidence, or after such proceedings, as would, in the opinion of the authority issuing the warrant, justify the issue of a warrant if the crime had been committed or the person convicted in that part of the dominions of the two Contracting Parties in which the Magistrate, Justice of Peace, or other competent authority, exercises jurisdiction: provided, however, that in the United Kingdom the accused shall, in such case, be sent as speedily as possible before a Police Magistrate in London. He shall, in accordance with this Article, be discharged, as well in the Republic of Chile as in the United Kingdom, if within the term of ninety days a requisition for extradition shall not have been made by the Diplomatic Agent of his country in accordance with the stipulations of this Treaty. The same rule shall apply to the cases of persons accused or convicted of any of the crimes or offences specified in this Treaty, and committed in the high seas on board any vessel of either country which may come into a port of the other.

"Article XI.

"The extradition shall take place only if the evidence be found sufficient, according to the laws of the State applied to, either to justify the committal of the prisoner for trial, in case the crime had been committed in the territory of the same State, or to prove that the

"Una sentencia dictada en rebeldía no ha de reputarse condenatoria, pero a una persona así sentenciada puede tratarse como a persona acusada.

"Artículo IX.

"Si la requisitoria para la extradición está de acuerdo con las precedentes estipulaciones, las autoridades competentes del Estado requerido procederán a la prisión del fugitivo.

"Artículo X.

"Puede prenderse a un criminal fugitivo en virtud de un mandato de prisión, dictado por cualquier Juez de Instrucción o de Paz u otra autoridad competente en cualquiera de los dos países, mediante aquellas pruebas, informes o denuncias, i aquellos procedimientos, que en la opinión de la autoridad que dé el mandato justificarían análogo mandato si el crimen se hubiera cometido o la persona hubiera sido condenada en aquella parte de los dominios de las dos Partes Contratantes donde ejerza jurisdicción el Juez de Instrucción o de Paz u otra autoridad competente; bajo la condición, sin embargo, que en el Reino Unido el acusado a de ser remitido en tal caso, a la mayor brevedad, a Londres, a disposición de algun Juez de Instrucción. De conformidad con este Artículo, el acusado será puesto en libertad, tanto en la República de Chile como en el Reino Unido, si dentro del plazo de noventa días no hubiera hecho una requisitoria para la extradición el Ajente Diplomático de su país de acuerdo con las estipulaciones de este Tratado. La misma regla se aplicará a los casos de personas acusadas o condenadas por cualquiera de los crímenes o delitos especificados en el presente Tratado, i que se hubieran cometido en alta mar a bordo de un buque de cualquiera de los dos países que entrase en un puerto del otro.

"Artículo XI.

"Solo tendrá lugar la extradición en el caso de hallarse suficiente el testimonio, según las leyes del país requerido, ya sea para justificar el enjuiciamiento en el caso de que se hubiera cometido el crimen en el territorio del mismo Estado, ya sea para comprobar la identidad del

prisoner is the identical person convicted by the Courts of the State which makes the requisition, and that the crime of which he has been convicted is one in respect of which extradition could, at the time of such conviction, have been granted by the State applied to; and no criminal shall be surrendered until after the expiration of fifteen days from the date of his committal to prison to await the warrant for his surrender.

"Article XII.

"In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the State applied to shall admit as valid evidence the sworn depositions or the affirmations of witnesses taken in the other State, or copies thereof, and likewise the warrants and sentences issued therein, and certificates of, or judicial documents stating the fact of a conviction, provided the same are authenticated as follows:—

"1.—A warrant must purport to be signed by a Judge, Magistrate, or officer of the other State.

"2. Depositions or affirmations, or the copies thereof, must purport to be certified, under the hand of a Judge, Magistrate, or officer of the other State, to be the original depositions or affirmations, or to be true copies thereof, as the case may require.

"3. A certificate of, or judicial document stating, the fact of a conviction must purport to be certified by a Judge, Magistrate, or officer of the other State.

"4. In every case such warrant, deposition, affirmation, copy, certificate, or judicial document must be authenticated, either by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of the other State; but any other mode of authentication for the time being permitted by the law of the country where the examination is taken may be substituted for the foregoing.

"Article XIII.

"If the individual claimed by one of the High Contracting Parties in pursuance of the present Treaty

preso como la persona condenada por los Tribunales del Estado que hace la requisitoria, i que el crimen por el que se le haya condenado es de aquellos con motivo de los cuales podria, en la época de dicha condenacion, haberse concedido la estradiccion por el Estado requerido: i ningun criminal será entregado hasta despues de pasados quince dias, contados desde la fecha de su encarceracion para esperar la órden de su entregar.

"Artículo XII.

"En los exámenes que deben practicar de conformidad con las precedentes estipulaciones, las autoridades del Estado requerido aceptarán como testimonio válido las deposiciones juramentadas o las afirmaciones de tertigos tomadas en el otro Estado, o copia de ellas, i tambien las órdenes de prision i sentencias allí dictadas i certificadas del hecho de una condena o documentos judiciales que lo declaren, con tal que estén autenticados como sigue:—

"1. Una órden de prision debe aparecer firmada por algun Juez, Majistrado, o empleado del otro Estado.

"2. Las deposiciones, o afirmaciones, o las copias de éstas, deben demostrar que certifican, mediante la firma de algun Juez Majistrado, o empleado del otro Estado, ser las deposiciones o afirmaciones orijinales, o copias fieles de ellas, segun lo requiera el caso.

"3. Un certificado del hecho de una condena o documento judicial que la declare, debe demostrar que está otorgada por algun Juez, Majistrado, o empleado del otro Estado.

"4. En todos los casos dicha órden, deposicion, afirmacion, copia, certificado, o documento judicial debe autenticarse, ya sea mediante juramento de algun testigo, ya sea mediante el sello oficial del Ministro de Justicia, o de algun otro Ministro del otro Estado; pero cualquiera otra manera de autenticar que esté permitida a la sazón por la lei del pais donde se practique el exámen, puede sustituirse a las precedentes.

"Artículo XIII.

"Si el individuo reclamado por una de las Altas Partes Contratantes conforme al presente Tratado tambien

should be also claimed by one or several other Powers on account of other crimes or offences committed upon their respective territories, his extradition shall be granted to the State whose demand is earliest in date.

“Article XIV.

“If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, or within such further time as the State applied to, or the proper Tribunal thereof, shall direct, the fugitive shall be set at liberty.

“Article XV.

“All articles seized which were in the possession of the person to be surrendered at the time of his apprehension shall, if the competent authority of the State applied to for the extradition has ordered the delivery of such articles, be given up when the extradition takes place; and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof of the crime.

“Article XVI.

“All expenses connected with extradition shall be borne by the demanding State.

“Article XVII.

“The stipulation of the present Treaty shall be applicable to the Colonies and foreign possessions of Her Britannic Majesty, so far as the laws in such Colonies and foreign possessions respectively will allow.

“The requisition for the surrender of a fugitive criminal, who has taken refuge in any of such Colonies or foreign possessions, shall be made to the Governor or chief authority of such Colony or possession by the chief Consular officer of the Republic of Chile in such Colony or possession.

“Such requisitions may be disposed of, subject always, as nearly as may be, and so far as the law of such Colony or foreign possession will allow, to the provisions of this Treaty, by the said Governor or chief authority, who, however, shall be at liberty either to grant the surrender or to refer the matter to his Government.

lo fuera por otra u otras Potencias con motivo de otros crímenes o delitos cometidos en sus respectivos territorios, se concederá la extradición al Estado cuya requisición fuere de fecha mas antigua.

“Article XIV.

“Si no se exhibiera testimonio bastante para la extradición dentro de los dos meses después de la fecha en que se prendió al fujitivo, o dentro del nuevo plazo que designe el Estado requerido o el correspondiente Tribunal del mismo, el fujitivo será puesto en libertad

“Artículo XV.

Todó objeto que esté en posesion del individuo que haya de entregarse i que se le tome al tiempo de prenderlo, será entregado al efectuarse la extradición si la autoridad competente del Estado requerido para la extradición ha ordenado la entrega de dichos objetos; i dicha entrega se hará estensiva no solo a los objetos robados, sino a cualquier otro que pueda servir de comprobante del crimen.

“Artículo XVI.

“Todos los gastos que ocasione la extradición estarán a cargo del Estado que la requiera.

“Artículo XVII.

“Las estipulaciones del presente Tratado se aplicarán a las Colonias i posesiones exteriores de Su Majestad Británica, en cuanto lo permitan las leyes de dichas Colonias i posesiones exteriores.

“La requisitoria para la entrega de un criminal fujitivo, refugiado en dichas Colonias o posesiones exteriores, será hecha al Gobernador o autoridad principal de dicha Colonia o posesion por el Acente principal Consular de la República de Chile en dicha Colonia o posesion.

“Conocerá de dicha requisitoria, sujetándose siempre, en cuanto le sea dado, i en cuanto le permitan las leyes de dicha Colonia o posesion exterior, a las prescripciones de este Tratado, dicho Gobernador o autoridad principal, el cual tendrá, sin embargo, la facultad o bien de conceder la entrega o de referir el asunto a su Gobierno.

‘ Her Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of Chilean criminals who may take refuge within such Colonies and foreign possessions, on the basis, so far as the law of such Colony or foreign possession will allow, of the provisions of the present Treaty.

“ Requisitions for the surrender of a fugitive criminal emanating from any Colony or foreign possession of Her Britannic Majesty shall be governed by rules laid down in the preceding Articles of the present Treaty.

“ Article XVIII.

“ The present Treaty shall come into force ten days after its publication in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties by a notice not exceeding one year, and not less than six months.

“ It shall be ratified, after receiving the approval of the Congress of the Republic of Chile ; and the ratifications shall be exchanged at Santiago as soon as possible.

“ In witness whereof the respective Plenipotentiaries have signed the same, and affixed thereto their respective seals.

“ Done at Santiago, the twenty-sixth day of January, in the year 1897.

“(L.S.)

J. G. Kennedy.

“ Su Majestad Británica tendrá, no obstante, la facultad de hacer arreglos especiales en las Colonias i posesiones exteriores Británicas para la entrega de criminales Chilenos que se refugien en dichas Colonias i posesiones exteriores, sobre la base, en cuanto lo permita la lei de dicha Colonia o posesion exterior, de las estipulaciones del presente Tratado.

“ Las requisitorias para la entrega de un criminal fujitivo que emanen de alguna Colonia o posesion exterior de Su Majestad Británica serán rejidas por las reglas sentadas en los precedentes Artículos del presente Tratado.

“ Artículo XVIII.

“ El presente Tratado entrará en vigor diez dias despues de publicado, conforme a las formas prescritas por las leyes de las Altas Partes Contratantes. Podrá darlo por terminado cualquiera de las Altas Partes Contratantes previo aviso que no pase de un año i no baje de seis meses.

“ El Tratado, despues de aprobado por el Congreso de la Republica de Chile, será ratificado, i las ratificaciones serán canjeadas en Santiago a la brevedad posible.

“ En fe de lo cual los respectivos Plenipotenciarios lo han firmado, i le han puesto sus sellos respectivos.

●
“ Hecho en Santiago, a los veintiseis dias del mes de Enero del año 1897.

“(L.S.)

C. Morla Vicuña.”

And whereas the ratifications of the said Treaty were exchanged at Santiago on the 14th day of April, 1898.

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and in virtue of the authority committed to Her by the said recited Acts, doth order, and it is hereby ordered, that from and after the 22nd day of August, 1898, the said Acts shall apply in the case of Chile, and of the said Treaty with the President of the Republic of Chile.

Provided always that the operation of the said Acts shall be and remain suspended within the Dominion of Canada so long as an Act of the Parliament of Canada passed in 1886,* and entitled "An Act respecting the Extradition of Fugitive Criminals." shall continue in force there, and no longer.

J. H. Harrison.

(g) Colombia.

At the Court at Windsor, the 28th day of November, 1889.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.

Earl of Zetland.

Secretary Lord Knutsford.

Lord Ashbourne.

Sir James Fergusson, Bart.

Sir James Caird.

Whereas * * * [*Here follow the first three recitals to the Order relating to the Argentine Republic, printed at p. 1 above.*]

And whereas a Treaty was concluded on the twenty-seventh day of October, one thousand eight hundred and eighty-eight, between Her Majesty and the President of the Republic of

* "The Extradition Act" (Revised Statutes of Canada, c. 142).

Colombia for the mutual extradition of fugitive criminals, which Treaty is in the terms following :—

"Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and his Excellency the President of the Republic of Colombia, having judged it expedient, with a view to the better administration of justice, and to the prevention of crime within the two countries and their jurisdictions, that persons charged with or convicted of the crimes or offences hereinafter enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up, have named as their Plenipotentiaries to conclude a Treaty, that is to say :

"Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, William John Dickson, Esquire, Her Minister Resident to the Republic of Colombia ; and

"His Excellency the President of the Republic of Colombia, Vicente Restrepo, Minister for Foreign Affairs of the said Republic ;

"Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles :—

" Article I.

"The High Contracting Parties engage to deliver up to each other, under the circumstances and conditions stated in the present Treaty, those persons who, being accused or convicted of any of the crimes or offences enumerated in Article II., committed in the territory of the one Party, shall be found within the territory of the other Party.

" Article II.

"Extradition shall be reciprocally granted for the following crimes or offences :—

"1. Murder (including assassination, parricide, infanticide, poisoning), or attempt or conspiracy to murder.

"2. Manslaughter.

"3. Administering drugs or using instruments with intent to procure the miscarriage of women.

"Su Excelencia el Presidente de la República de Colombia y Su Majestad la Reina del Reino Unido de la Gran Bretaña é Irlanda, habiendo juzgado conveniente, para la mejor administración de justicia y para la prevención del crimen en los dos países y en sus jurisdicciones respectivas, que las personas acusadas ó convictas de los delitos que en seguida se enumeran y que se hallen huyendo de la justicia, sean entregadas recíprocamente en ciertas circunstancias, han nombrado Plenipotenciarios para concluir un Tratado, á saber :

"Su Excelencia el Presidente de la República de Colombia, á Vicente Restrepo, Ministro de Relaciones Exteriores de la misma ; y

"Su Majestad la Reina del Reino Unido de la Gran Bretaña é Irlanda, á William John Dickson, su Ministro Residente en la República de Colombia ;

"Quienes, después de haberse comunicado sus respectivos plenes poderes y haberlos hallado en buena y debida forma, han convenido en los Artículos siguientes, y los han estipulado :—

" Artículo I.

"Las Altas Partes Contratantes se comprometen á entregarse recíprocamente, en las circunstancias y con las condiciones que en el presente Tratado se establecen, todas las personas que, siendo acusadas ó estando convictas de alguno de los delitos enumerados en el Artículo II., cometidos en el territorio de una de las Partes, se hallaren en el territorio de la otra Parte.

" Artículo II.

"La extradición se concederá recíprocamente para los siguientes delitos :—

"1. Homicidio (incluyendo asesinato, parricidio, infanticidio, envenenamiento), ó tentativa ó conspiración para cometerlo.

"2. Homicidio atenuado.

"3. Administración de drogas ó uso de instrumentos con propósito de causar el aborto.

"4. Rape.

"5. Unlawful carnal knowledge, or any attempt to have unlawful carnal knowledge, of a girl under 16 years of age, if the evidence produced justifies committal for those crimes according to the laws of both the Contracting parties.

"6. Indecent assault

"7. Kidnapping and false imprisonment, child-stealing.

"8. Abduction.

"9. Bigamy.

"10. Maliciously wounding or inflicting grievous bodily harm.

"11. Assault occasioning actual bodily harm.

"12. Threats, by letter or otherwise, with intent to extort money or other things of value.

"13. Perjury or subornation of perjury.

"14. Arsen.

"15. Burglary or housebreaking, robbery with violence, larceny, or embezzlement.

"16. Fraud by a bailee, banker, agent, factor, trustee, director, member, or public officer of any Company, made criminal by any law for the time being in force.

"17. Obtaining money, valuable security, or goods by false pretences; receiving any money, valuable security, or other property, knowing the same to have been stolen or unlawfully obtained.

"18.—(a.) Counterfeiting or altering money, or bringing into circulation counterfeited or altered money.

"(b.) Forgery, or counterfeiting or altering, or uttering what is forged, counterfeited, or altered.

"(c.) Knowingly making, without lawful authority, any instrument, tool, or engine adapted and intended for the counterfeiting of coin, or forgery of any paper money of the respective countries.

"19. Crimes against Bankruptcy Law.

"20. Any malicious act done with intent to endanger the safety of any person travelling or being upon a railway.

"4. Violación ó fornicación de mujer.

"5. Ayuntamiento carnal ilegítimo ó tentativa para tenerlo con una niña de menos de 16 años de edad, si las pruebas que se produzcan justifican el enjuiciamiento por tales delitos conforme á las leyes de ambas Partes Contratantes.

"6. Ultraje al pudor.

"7. Secuestro de personas, retención ilegal ó robo de niños.

"8. Rapto.

"9. Bigamia.

"10. Heridas ó lesiones corporales graves hechas con intención.

"11. Asalto que ocasione daño corporal efectivo.

"12. Amenazas, sea por cartas ó de cualquier otro modo, con propósito de estafar dinero ó otras cosas de valor.

"13. Perjurio ó soborno de testigos.

"14. Incendio voluntario.

"15. Escalamiento ó fornicación de habitación con intento criminal, robo ejecutado con violencia, ó hurto.

"16. Abuso de confianza ó defraudación por un depositario, banquero, agente, factor, administrador, director, miembro ó empleado público de una Compañía, que se haga criminal conforme á las leyes vigentes.

"17. Estafa de dinero ó papel moneda, de prendas, valiosas ó de mercancías con falsos pretextos; recibo de dinero ó papel moneda, de prendas valiosas ó de otras propiedades con conocimiento de que han sido robadas ó ilegalmente obtenidas.

"18.—(a.) Falsificación ó alteración de moneda ó papel moneda, ó circulación de moneda ó papel moneda falsos ó alterados.

"(b.) Falsificación, imitación, alteración ó emisión de lo que ha sido falsificado, imitado ó alterado.

"(c.) Construcción, á sabiendas, sin autorización legal de instrumento, utensilio ó aparato adaptado y destinado á la fabricación de moneda falsa, ó á la falsificación de papel moneda de los dos países.

"19. Delitos contra las leyes sobre bancarrota.

"20. Toda acción maliciosa ejecutada con propósito de poner en peligro la seguridad de cualquiera persona que viaje en ferrocarril ó se halle sobre la línea férrea.

"21. Malicious injury to property, if such offence be indictable.

"22. Crimes committed at sea:—

"(a.) Piracy by the law of nations.

"(b.) Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

"(c.) Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.

"(d.) Assault on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.

"23. Dealing in slaves in such manner as to constitute a criminal offence against the laws of both States.

"The extradition is also to be granted for participation in any of the aforesaid crimes, provided such participation be punishable by the laws of both Contracting Parties.

"Extradition may also be granted at the discretion of the State applied to in respect of any other crime for which, according to the laws of both the Contracting Parties for the time being in force, the grant can be made.

" Article III.

"Either Government may, in its absolute discretion, refuse to deliver up its own subjects to the other Government.

" Article IV.

"The extradition shall not take place if the person claimed on the part of Her Majesty's Government, or the person claimed on the part of the Government of Colombia, has already been tried and discharged, or punished, or is still under trial in the territory of Colombia or in the United Kingdom respectively, for the crime for which his extradition is demanded.

"If the person claimed on the part of Her Majesty's Government, or on the part of the Government of Colombia, should be under examination for any other crime in the territory of Colombia or in the United Kingdom respectively, his extradition shall be deferred until

"21. Daño malicioso á la propiedad, si el acto está erigido en delito.

"22. Delitos que se cometan en el mar, á saber:—

"(a.) Piratería, calificada conforme al derecho de gentes.

"(b.) Hundimiento ó destrucción de un buque en el mar, ó tentativa y conspiración para ejecutar estos hechos.

"(c.) Sublevación ó conspiración para sublevarse, formada por dos ó más personas á bordo de un buque en alta mar contra la autoridad del capitán.

"(d.) Asalto á bordo de un buque en alta mar con propósito de quitar la vida ó hacer grave daño corporal.

"23. Trata de esclavos ejecutada con las circunstancias que la constituyen delito conforme á las leyes de ambos Estados.

"Asimismo se concede la extradición por la complicidad en cualquiera de los delitos antedichos, con tal de que esa complicidad sea punible conforme á las leyes de ambas Partes Contratantes.

"La extradición puede también ser concedida á voluntad del Estado de quién se solicite respecto de cualquiera otro delito por el cual pueda otorgarse de acuerdo con las leyes vigentes de ambas Partes Contratantes.

" Artículo III.

"Cualquiera de los dos Gobiernos tendrá absoluta libertad para rehusar la entrega de sus propios súbditos al otro Gobierno.

" Artículo IV.

"La extradición no tendrá lugar si la persona reclamada de parte del Gobierno de Colombia ó de parte del de Su Majestad Británica ha sido ya juzgado y absuelta ó castigada, ó se halla todavía sometida á juicio en el Reino Unido ó en el territorio de Colombia, respectivamente, por el delito que motiva la demanda de extradición.

"Si la persona reclamada por parte del Gobierno de Colombia, ó del de Su Majestad Británica, se hallare procesada por cualquiera otro delito en el Reino Unido ó en el territorio de Colombia respectivamente, se diferirá su extradición hasta la conclusión del juicio y el

the conclusion of the trial and the full execution of any punishment awarded to him.

“ Article V.

“ The extradition shall not take place, if subsequently to the commission of the crime, or the institution of the penal prosecution or the conviction thereon, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the State applied to.

“ Article VI.

“ A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove that the requisition for his surrender has, in fact, been made with a view to try or punish him for an offence of a political character.

“ Article VII.

“ A person surrendered can in no case be kept in prison, or be brought to trial, in the State to which the surrender has been made, for any other crime, or on account of any other matters, than those for which the extradition shall have taken place, until he has been restored, or has had an opportunity of returning, to the State by which he has been surrendered.

“ This stipulation does not apply to crimes committed after the extradition.

“ Article VIII.

“ The requisition for extradition shall be made through the Diplomatic Agents of the High Contracting Parties respectively.

“ The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition, and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there.

“ If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the

pleno cumplimiento de cualquier castigo á que haya sido sentenciada.

“ Artículo V.

“ No tendrá lugar la extradición si, con posterioridad á la comisión del delito ó á la iniciación de la causa, ó á haberse declarado convicto el individuo, ha quedado éste, por el trascurso del tiempo, exento de enjuiciamiento ó de castigo, conforme á las leyes del Estado á quien se le reclama.

“ Artículo VI.

“ El criminal fugitivo no será entregado si el delito respecto del cual se pide su extradición tiene carácter político, ó si él prueba que la demanda para su entrega ha sido hecha positivamente con la mira de juzgarlo ó castigarlo por un delito de carácter político.

“ Artículo VII.

“ La persona que haya sido entregada por extradición no podrá en ningún caso ser mantenida en prisión ó sometida á juicio en el Estado á quien se ha hecho la entrega, por ningún otro delito ni en consideración á ninguna otra causa que aquellos por los cuales haya tenido lugar la extradición, á menos que haya sido restituida ó haya tenido oportunidad de volver al Estado que la entregó.

“ Esta estipulación no es aplicable á los delitos cometidos después de la extradición.

“ Artículo VIII.

“ La demanda para la extradición se hará por medio de los Agentes Diplomáticos de las Altas Partes Contratantes respectivamente.

“ La demanda para la extradición de un acusado debe ir acompañada de la orden de arresto expedida por la autoridad competente del Estado que exija la extradición, y de aquellas pruebas que, conforme á las leyes del lugar donde se encuentre el acusado, hubieran de justificar su aprehensión si el delito hubiese sido cometido allí.

“ Si la demanda se refiere á un reo rematado, debe ir acompañada del fallo condenatorio dictado contra la persona convicta por el

convicted person by the competent Court of the State that makes the requisition for extradition.

"A sentence passed in *contumaciam* is not to be deemed a conviction, but a person so sentenced may be dealt with as an accused person.

" Article IX.

If the requisition for extradition be in accordance with the foregoing stipulations, the competent authorities of the State applied to shall proceed to the arrest of the fugitive.

" Article X.

"A fugitive criminal may be apprehended under a warrant issued by any Police Magistrate, Justice of the Peace, or other competent authority in either country, on such information or complaint, and such evidence, or after such proceedings as would, in the opinion of the authority issuing the warrant, justify the issue of a warrant if the crime had been committed, or the person convicted, in that part of the dominions of the two Contracting Parties in which the Magistrate, Justice of the Peace, or other competent authority exercises jurisdiction; provided, however, that in the United Kingdom the accused shall, in such case, be sent as speedily as possible before a Police Magistrate in London. He shall, in accordance with this Article, be discharged, as well in Colombia as in the United Kingdom, if within the term of thirty days a requisition for extradition shall not have been made by the Diplomatic Agent of his country, in accordance with the stipulations of this Treaty.

"The same rule shall apply to the cases of persons accused or convicted of any of the crimes or offences specified in this Treaty, and committed on the high seas on board any vessel of either country which may come into a port of the other.

" Article XI.

"The extradition shall take place only if the evidence be found sufficient, according to the laws of the State applied to, either to justify the committal of the prisoner for trial, in case the crime had been

tribunal competente del Estado que hace la demanda de extradición.

"La sentencia dictada in *contumaciam* no se considerará como fallo condenatorio; pero la persona sentenciada de esta manera pueda tratarse como cualquier individuo acusado.

" Artículo IX.

"Si la demanda de extradición estuviere de acuerdo con las anteriores estipulaciones, la autoridad competente del Estado al cual se dirija ésta, procederá á la aprehensión del prófugo.

" Artículo X.

"Un criminal fugitivo puede ser aprehendido por orden expedida por cualquier magistrado de policía, juez de paz, ú otra autoridad competente en ambos países, por informes ó quejas, y por pruebas, ó después de procedimientos que, en opinión de la autoridad que dió la orden, justificarian la expedición de ésta, si el delito hubiese sido cometido ó el criminal condenado en aquella parte del territorio de los dos países contratantes en la cual el magistrado, el juez, ú otra autoridad competente ejerzan jurisdicción; con tal, sin embargo, que en ese caso, en el Reino Unido el acusado sea enviado con la brevedad posible á un magistrado de policía en Londres. De acuerdo con este Artículo, el acusado será puesto en libertad, tanto en Colombia como en el Reino Unido, si en el término de treinta días no se solicitare su extradición por el Agente Diplomático de su país conforme á las estipulaciones de este Tratado.

"La misma regla se aplicará en los casos de personas acusadas ó ó convictas de los delitos especificados en este Tratado, y cometidos en alta mar, á bordo de algún buque de cualquiera de los dos Estados que llegue á un puerto del otro.

" Artículo XI.

"La extradición solo tendrá lugar si las pruebas fueren suficientes conforme á las leyes del Estado de quien se solicita, bien sea para justificar el sometimiento del procesado á juicio, caso que el delito

committed in the territory of the same State, or to prove that the prisoner is the identical person convicted by the Courts of the State which makes the requisition, and that the crime of which he has been convicted is one in respect of which extradition could, at the time of such conviction, have been granted by the State applied to; and no criminal shall be surrendered until after the expiration of fifteen days from the date of his committal to prison to await the warrant for his surrender.

“ Article XII.

“ In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the State applied to shall admit as valid evidence the sworn depositions or statements of witnesses taken in the other State, or copies thereof, and likewise the warrants and sentences issued therein, and certificates of, or judicial documents stating, the fact of a conviction, provided the same are authenticated as follows:—

“ 1. A warrant must purport to be signed by a Judge, Magistrate, or officer of the other State.

“ 2. Depositions or affirmations, or the copies thereof, must purport to be certified, under the hand of a Judge, Magistrate, or officer of the other State, to be the original depositions or affirmations, or to be true copies thereof, as the case may require.

“ 3. A certificate of, or judicial document stating the fact of a conviction must purport to be certified by a Judge, Magistrate, or officer of the other State.

“ 4. In every case, such warrant, deposition, affirmation, copy, certificate, or judicial document must be authenticated either by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of the other State; but any other mode of authentication for the time being permitted by law where the examination is taken may be substituted for the foregoing.

“ Article XIII.

“ If the individual claimed by one of the two High Contracting

haya sido cometido en le territorio del mismo Estado, ó bien para probar que el reo es la misma persona sentenciada por los Tribunales del Estado que hace la demanda, y que el delito de que ha sido convicta es de aquellos respecto de los cuales podría haber sido concedida la extradición al tiempo de la sentencia, por el Estado de quién se solicita. Ningun criminal será entregado antes de haber transcurrido quince días desde la fecha en que fué reducido á prisión en espera ne la orden de entrega.

“ Artículo XII.

“ En la investigación que hayan de hacer, conforme á las anteriores estipulaciones, las autoridades del Estado demandado admitirán como pruebas las declaraciones juradas ó las deposiciones de testigos tomadas en el otro Estado, ó sus copias, así como también los autos y sentencias producidos allí, y los certificados que acrediten el hecho de la condenación, ó los documentos judiciales que la establezcan, con tal de que tales piezas se hallen autenticadas como sigue:—

“ 1. Toda orden debe llevar la firma de un Juez, Magistrado, ó agente público del otro Estado.

“ 2. Las declaraciones ó atestaciones ó sus copias deben ser certificadas de puño y letra del Juez, Magistrado ó agente público del otro Estado, con expresión de que son declaraciones originales, ó sus copias fieles según el caso.

“ 3. Todo certificado de condenación, ó todo documento judicial en que conste el fallo condenatorio, debe ser certificado por un Juez, Magistrado, ó agente público del otro Estado.

“ 4. En cada caso, la orden, declaración, atestación, copia, certificado, ó documento judicial, debe ser autenticado, ora por el juramento de algún testigo, ora por el sello oficial del Ministro de Justicia ó de algún otro Ministro del otro Estado; pero cualquiera otro modo de autenticación permitido por las leyes vigentes al tiempo de la investigación puede sustituirse por el anterior.

“ Artículo XIII.

“ Si el individuo reclamado por una de las dos Altas Partes Contra-

Parties in pursuance of the present Treaty should be also claimed by one or several other Powers, on account of other crimes or offences committed upon their respective territories his extradition shall be granted to that State whose demand is earliest in date.

"Article XIV.

"If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, or within such further time as the State applied to, or the proper Tribunal thereof, shall direct, the fugitive shall be set at liberty.

"Article XV.

"All articles seized which were in the possession of the person to be surrendered at the time of his apprehension shall, if the competent authority of the State applied to for the extradition has ordered the delivery of such articles, be given up when the extradition takes place; and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof of the crime.

"Article XVI.

"All expenses connected with extradition shall be borne by the demanding State.

"Article XVII.

"The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of Her Britannic Majesty, so far as the laws for the time being in force in such Colonies and foreign possessions respectively will allow.

"The requisition for the surrender of a fugitive criminal who has taken refuge in any of such Colonies or foreign possessions shall be made to the Governor or chief authority of such Colony or possession by the Chief Consular officer of the Republic of Colombia in such Colony or possession.

Such requisition may be disposed of, subject always, as nearly as may be, and so far as the law of such Colony or foreign possession will allow, to the provisions of this

tantes conforme al presente Tratado fuere asimismo reclamado por otro ó otros Gobiernos, con motivo de otros delitos cometidos en sus respectivos territorios, la extradición se concedera al que primero haya hecho la demanda.

"Artículo XIV.

"Si dentro de dos meses contados desde la fecha de la aprehensión del prófugo no se hubieren producido pruebas suficientes, ó dentro de la prórroga que ordene el Estado de quien se solicita la extradición ó el Tribunal competente de él, entónces el detenido será puesto en libertad.

"Artículo XV.

"Todos los bienes embargados al tiempo de su aprehensión al individuo reclamado se entregarán también cuando tenga lugar la extradición, si la autoridad competente del Estado de que ésta se solicita lo ordenare; y la entrega no sólo se extenderá á los objetos robados, sino también á todos aquellos que puedan servir como prueba del delito.

"Artículo XVI.

"Todos los gastos relacionados con la extradición serán de cargo del Estado que la solicitare.

"Artículo XVII.

"Las estipulaciones del presente Tratado serán aplicables á las Colonias y á las posesiones extranjeras de Su Majestad Británica, hasta donde lo permitan las leyes vigentes en tales Colonias y en tales posesiones extranjeras respectivamente.

"La demanda para la entrega de un reo prófugo que se haya refugiado en alguna de tales Colonias ó posesiones extranjeras, se dirigirá al Gobernador ó á la autoridad principal de la Colonia ó posesión por el principal empleado Consular de la República de Colombia residente en ella.

"Tal demanda pueda resolverse por dicho Gobernador ó por la principal autoridad, quienes quedan en libertad de conceder la extradición ó referir el asunto á su Gobierno,

Treaty, by the said Governor or chief authority, who, however, shall be at liberty either to grant the surrender or to refer the matter to his Government.

"Her Britannic Majesty, shall, however, be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of Colombian criminals who may take refuge within such Colonies and foreign possessions, on the basis, as nearly as may be, and so far as the law of such Colony or foreign possession will allow, of the provisions of the present Treaty.

"Requisitions for the surrender of a fugitive criminal emanating from any Colony or foreign possession of Her Britannic Majesty shall be governed by the rules laid down in the preceding Articles of the present Treaty.

" Article XVIII.

"The present Treaty shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties by a notice not exceeding one year and not less than six months.

"The Treaty, after receiving the approval of the Congress of Colombia, shall be ratified, and the ratifications shall be exchanged at Bogotá as soon as possible.

"In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto their respective seals.

"Done at Bogotá, this twenty-seventh day of October, in the year of our Lord One thousand eight hundred and eighty-eight.

"(L.S.) *W. J. Dickson.*

"(L.S.) *Vicente Restrepo.*"

sujetándose, hasta donde sea posible, á este Tratado en cuanto las leyes de la Colonia ó de la posesión extranjera lo permitan.

"Su Majestad Británica queda sin embargo, en la libertad de hacer arreglos especiales en las Colonias Británicas y en las posesiones extranjeras para la entrega de criminales Colombianos que se refugien en tales Colonias ó posesiones extranjeras, sobre la base de las disposiciones de este Tratado, en cuanto sea posible y hasta donde lo permitan las leyes de tal Colonia ó posesión extranjera.

"Las demandas para la extradición de un reo prófugo procedentes de alguna Colonia ó posesión extranjera de Su Majestad Británica se ajustarán á las reglas establecidas en los Artículos anteriores del presente Tratado.

" Artículo XVIII.

"El presente Tratado empezará á regir diez dias después de su publicación, en consonancia con las formalidades prescritas por las leyes de las Altas Partes Contratantes; y puede suspenderse por cualquiera de ellas, dando aviso á la otra dentro de un plazo que no exceda de un año ni sea menor de seis meses.

"Este Tratado se ratificará después de su aprobación por el Congreso de Colombia, y las ratificaciones se canjearán en Bogotá, en el mas breve término posible.

"En fe de lo cual los respectivos Plenipotenciarios firman el presente, y ponen sus sellos particulares.

"Hecho en Bogotá, á veinte y siete de Octubre de mil ochocientos ochenta y ocho.

"(L.S.) *Vicente Restrepo.*

"(L.S.) *W. J. Dickson.*"

And whereas the ratifications of the said Treaty were exchanged at Bogotá, on the twenty-first day of August, one thousand eight hundred and eighty-nine.

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and in virtue of the authority committed to Her by the said recited Acts, doth order, and it is hereby ordered, that from and after the sixteenth day of December, one thousand eight hundred and eighty-nine, the said Acts shall apply in the case of Colombia, and of the said Treaty with the President of the Republic of Colombia.

Provided always, and it is hereby further ordered, that the operation of the said Extradition Acts, 1870* and 1873†, shall be suspended within the Dominion of Canada so far as relates to the Republic of Colombia, and to the said Treaty, and so long as the provisions of the Canadian Act aforesaid of 1886‡ continue in force and no longer.

C. L. Peel.

(h) Denmark.

At the Court at Windsor, the 26th day of June, 1873.

PRESENT :

The Queen's Most Excellent Majesty in Council

Whereas * * * [*Here follows the first recital to the Order of March 17, 1874, relating to Austria-Hungary, printed at p. 11 above.*]

And whereas a Treaty was concluded on the thirty-first day of March last between Her Majesty and the King of Denmark for the Mutual Extradition of Fugitive Criminals, which Treaty is in the terms following :—

"Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Majesty the King of Denmark, having judged it expedient, with a view to the better administration of justice, and to the prevention of crime within their respective territories and jurisdictions, that persons charged with or convicted of the crimes herein-after enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up; their said Majesties have named as their Plenipotentiaries to conclude a Treaty for this purpose, that is to say:

"Da Hans Majestæt Kongen af Danmark og Hendes Majestæt Dronningen af det forenede Kongerige Storbritannien og Irland, til bedre Haandhævelse af Retspleien og til Forebyggelse af Forbrydelser indenfor deres respektive Territorier og Statsgebyter, have anseet det for gavnligt, at Personer, som ere anklagede for eller overbeviste om at have gjort sig skyldige i de nedenfor angivne Forbrydelser og ved Flugt have unddraget sig Retsforfølgning, blive under visse Omstændigheder gjensidigen udleverede, saa have bemeldte Majestæter til i dette Øiemed at afslutte en Traktat udnævnt til deres Befuldmægtigede:

"Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Sir Charles Lennox Wyke, Knight Commander of the Most Honourable Order of the

"Hendes Majestæt Dronningen af det forenede Kongerige Storbritannien og Irland, Sir Charles Lennox Wyke, Kommandeur af Bath-Ordenen, Hendes Majestæts

* 33 & 34 Vict. c. 52.

† 36 & 37 Vict. c. 60.

‡ "The Extradition Act" (Revised Statutes of Canada, c. 142).

Bath, Her Envoy Extraordinary and Minister Plenipotentiary to His Majesty the King of Denmark;

“And His Majesty the King of Denmark, Baron Otto Ditley Rosenörn-Lehn, Knight Commander of the Order of the Danebrog and Danebrogsmand, His Majesty's Minister for Foreign Affairs;

“Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following Articles:—

“Article I.

“It is agreed that Her Britannic Majesty and His Majesty the King of Denmark shall, on requisition made in their name by their respective Diplomatic Agents, deliver up to each other reciprocally, any persons, except native born or naturalized subjects of the Party upon whom the requisition may be made, who, being accused or convicted of any of the crimes hereinafter specified, committed within the territories of the requiring Party, shall be found within the territories of the other Party:—

“1. Murder, or attempt or conspiracy to murder.

“2. Manslaughter.

“3. Counterfeiting or altering money, or uttering counterfeit or altered money.

“4. Forgery, or counterfeiting, or altering, or uttering what is forged or counterfeited or altered.

“5. Embezzlement or larceny.

“6. Obtaining money or goods by false pretences.

“7. Crimes by bankrupts against bankruptcy laws.

“8. Fraud by a bailee, banker, agent, factor, trustee, or director, or member or public officer of any company made criminal by any law for the time being in force.

“9. Rape.

“10. Abduction.

“11. Child Stealing.

“12. Burglary or housebreaking.

overordentlige Gesandt og befuldmægtigede Minister hos Hans Majestæt Kongen af Danmark;

“Og Hans Majestæt Kongen af Danmark, Baron Otto Ditley Rosenörn-Lehn, Kommandeur af Danebrog og Danebrogsmand, Hans Majestæts Udenrigsminister:

“Hvilke, efter gjensidig Meddelelse af deres respektive Fuldmagter, der befandt sig i god og rigtig Form, ere komne overeens om følgende Artikler:—

“Artikel I.

“Hans Majestæt Kongen af Danmark og Hendes Britiske Majestæt forpligte sig til, paa derom i deres Navn gennem deres respektive diplomatiske Agenter fremsat Begjæring, gjensidigen at udlevere til hinanden Personer, som, anklagede for eller overbeviste om at have begaaet nogen af de nedenfor angivne Forbrydelser indenfor den Parts Territorium, der begjærer Udleveringen, maatte blive antrufne indenfor den anden Parts Territorium, dog med Undtagelse af det Tilfælde, at saadanne Personer have Indføderet ifølge Fødsel eller Naturalisation i den Stat, til hvilken Begjæringen om Udleveringen er rettet:—

“1. Mord eller Forsøg paa Mord eller Samraad om Mord.

“2. Drab.

“3. Eftergjørelse eller Forfalskning af Penge eller Udgivelse af eftergjorte eller forfalskede Penge.

“4. Dokumentfalsk eller anden Eftergjørelse eller Forfalskning eller svigagtig Brug af et falsk Dokument eller af anden eftergjort eller forfalsket Gjenstand.

“5. Tilegnelse af betroet Gods eller Tyveri.

“6. Tilvendelse af Penge eller Gods ved falske Foregivender.

“7. Forbrydelser af Fallenter imod Fallidlovgivningen.

“8. De efter den til enhver Tid gjældende Lovgivning strafbare svigagtige Handlinger, der begaaes af en Depositarius, Bankier, Agent, Faktor, Værge, Kurator eller af et Selskabs Bestyrer, Medlem eller offentlige Betjente.

“9. Voldtægt.

“10. Bortførelse.

“11. Barnerov.

“12. Indbrudstyveri.

- "13. Arzon.
- "14. Robbery with violence.
- "15. Threats by letter or otherwise with intent to extort.

"16. Piracy by law of nations.

"17. Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

"18. Assaults on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.

"19. Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.

"Provided that the surrender shall be made only when, in the case of a person accused, the commission of the crime shall be so established as that the laws of the country where the fugitive or person so accused shall be found would justify his apprehension and commitment for trial if the crime had been there committed; and, in the case of a person alleged to have been convicted, on such evidence as, according to the laws of the country where he is found, would prove that he had been convicted.

" Article II.

"In the dominions of Her Britannic Majesty, other than the Colonies or foreign possessions of Her Majesty, the manner of proceeding shall be as follows:—

"I. In the case of a person accused—

"The requisition for the surrender shall be made to Her Britannic Majesty's Principal Secretary of State for Foreign Affairs by the Minister or other Diplomatic Agent of His Majesty the King of Denmark at London, accompanied by (1) a warrant or other equivalent judicial document for the arrest of accused, issued by a Judge or Magistrate duly authorized to take cognizance of the acts charged against him in Denmark, (2) duly authenticated depositions or statements taken on oath before such Judge or Magistrate, clearly setting forth the acts on account of which

"13. Brandstiftelse.

"14. Røveri.

"15. Trusler, som i Breve eller paa anden Maade fremføres for at aftrænge Penge eller Gods.

"16. Söröveri i folkeretlig Forstand

"17. Sænkning eller Tilintetgjørelse af et Skib i Søen eller herpaa rettet Forsøg eller Komplot.

"18. Voldsgjæringer ombord paa et Skib i rum 86, udövede i den Hensigt at dræbe eller tilføie en større Legemsbeskadigelse.

"19. Mytteri ombord paa et Skib i rum 86 mod Skibsførerens Myndighed eller derpaa rettet Sammenrottelse af to eller flere Personer.

"Udleveringen af en Person, der er anklaget for en Forbrydelse, skal dog ikkun da finde Sted, naar der er tilvejebragt et saadant Bevis for Udførelsen af denne, at der efter det Lands Love, hvor den Undvegne eller Anklagede antræffes, deri vilde indeholdes tilstrækkelig Hjemmel til at paagribe ham og skille ham for Retten, hvis Forbrydelsen var begaaet i dette Land. Ligeledes skal Udleveringen af en Person, der angives at være domfældt, alene finde Sted efter Forelæggelse af et saadant Retsdokument, som ifølge det Lands Love, hvor han antræffes, vilde afgive Bevis for hans Domfældelse.

" Artikel II.

"I Hendes Britiske Majestæts Lande, med Undtagelse af Hendes Majestæts Kolonier eller Bilande, skal følgende Fremgangsmaade anvendes:—

"I. I det Tilfælde, at den Person, der fordres udleveret, er anklaget:—

"Skal Begjæringen om Udlevering skee til Hendes Britiske Majestæts første Statssekreterair for de udenlandske Anliggender ved Hans Majestæt Kongen af Danmarks Gesandt eller diplomatiske Agent i London, og denne Begjæring skal være ledsaget (1) af en Fængselingskendelse eller et andet tilsvarende Retsdokument angående den Paagjældendes Fængsling, udstedt af en Dommer eller anden Retsembedsmand, som er behørig bemyndiget til at gjøre de Handlinger, der lægges den Paagjældende til Last i Danmark, til Gjenstand for Undersøgelse; (2) af

the fugitive is demanded; and (3) a description of the person claimed, and any other particulars which may serve to identify him. The said Secretary of State shall transmit such documents to Her Britannic Majesty's Principal Secretary of State for the Home Department, who shall then, by order under his hand and seal, signify to some Police Magistrate in London that such requisition has been made, and require him, if there be due cause, to issue his warrant for the apprehension of the fugitive.

“On the receipt of such order from the Secretary of State, and on the production of such evidence as would, in the opinion of the Magistrate, justify the issue of the warrant if the crime had been committed in the United Kingdom, he shall issue his warrant accordingly.

“When the fugitive shall have been apprehended in virtue of such warrant, he shall be brought before the Police Magistrate who issued it, or some other Police Magistrate in London. If the evidence to be then produced shall be such as to justify, according to the law of England, the committal for trial of the prisoner if the crime of which he is accused had been committed in England, the Police Magistrate shall commit him to prison to await the warrant of the Secretary of State for his surrender; sending immediately to the Secretary of State a certificate of the committal and a report upon the case.

“After the expiration of a period from the committal of the prisoner, which shall never be less than fifteen days, the Secretary of State shall, by order under his hand and seal, order the fugitive criminal to be surrendered to such person as may be duly authorized to receive him on the part of the Government

behørig legaliserede Udsagn og Forklaringer, som under Bæde ere afgivne for en saadan Dommer eller Retsembedsmand, og som give en klar Fremstilling af de Handlinger, paa Grund af hvilke Udleveringen er begjært, samt endelig (3) af en Beskrivelse af den Person, der fordres udleveret, og af en Meddelelse af andre Data, som kunne tjene til at godtgjøre hans Identitet. Bemeldte Statssecretaire skal fremsende disse Dokumenter til Hendes Britiske Majestæts første Statssecretaire for de indenrigske Forhold, og denne skal da ved en med sin Underskrift og sit Segl forsynet Ordre meddele en Politimyndighed i London, at en Begjæring som den ovennævnte er fremsat, og paalægge ham, hvis han finder den behørig begrundet, at udstede en Betaling om den Undvegnes Paagribelse.

“Naar den nævnte Politimyndighed har modtaget en saadan Befaling fra Statssecretairen, og naar den finder det Bevis, der fremlægges for den, at være af saadan Beskaffenhed, at det vilde retfærdiggjøre Udstedelsen af en Anholdelsesbefaling, hvis Forbrydelsen var bleven begaaet i det Forenede Kongerige, skal den udstede en saadan Anholdelsesbefaling i Overensstemmelse dermed.

“Naar den Undvegne er bleven anholdt ifølge denne Anholdelsesbefaling, skal han stilles for den Politimyndighed, som udstedte den, eller for en anden Politimyndighed i London. Dersom det Bevis, der fores for denne, er af saadan Beskaffenhed, at det efter England's Love vilde berettigede til at bringe den Anholdte for Domstolene, hvis den Forbrydelse, som han sigtes for, var bleven begaaet i England, skal Politimyndigheden sætte ham i Fængsel for der at afvente Statssecretairens Befaling om hans Udlevering. Attest om Fængslingsbefalingen samt en Beretning om Sagen skal ufortøvet sendes til Statssecretairen.

“Efter Udløbet af en vis Tid efter Fængslingen, hvilken Tid aldrig maa være kortere end femten Dage, skal Statssecretairen ved en under sin Haand og sit Segl udfærdiget Befaling beordre den undvegne Forbryder udleveret til den Person, som af Hans Majestæt Kongen af Danmarks Regjering maatte være

of His Majesty the King of Denmark.

"II. In the case of a person convicted—

"The course of proceeding shall be the same as in the preceding case of a person accused, except that the document to be produced by the Minister or other Diplomatic Agent of His Danish Majesty in support of his requisition, shall clearly set forth the crime of which the person claimed has been convicted, and state the fact, place, and date of his conviction. The evidence to be produced before the Police Magistrate shall be such as would, according to the law of England, prove that the prisoner was convicted of the crime charged.

"After the Police Magistrate shall have committed the accused or convicted person to prison to await the order of a Secretary of State for his surrender, such person shall have the right to apply for a writ of *habeas corpus*. If he should so apply, his surrender must be deferred until after the decision of the Court upon the return to the writ, and even then can only take place if the decision is adverse to the applicant. In the latter case the Court may at once order his delivery to the person authorized to receive him, without the order of a Secretary of State for his surrender, or commit him to prison to await such order.

"Article III.

"In the dominions of His Majesty the King of Denmark other than the Colonies or Foreign Possessions of His said Majesty, the manner of proceeding shall be as follows:—

"In the case of a person accused—

"The requisition for the surrender shall be made to the Minister for Foreign Affairs of His Majesty the King of Denmark by the Minister or other Diplomatic Agent of Her Britannic Majesty at Copenhagen, accompanied by (1) a warrant for the arrest of the accused,

tilbørlig bemyndiget til at modtage ham.

"II. I det Tilfælde at den Person, der fordras udleveret, er domfældt—

"Skal Fremgangsmaaden være den samme som i det foregaaende Tilfælde, hvor den Paagjældende var anklaget, dog med Undtagelse af, at her det Dokument, som Hans Majestæt Kongen af Danmarks Minister eller diplomatiske Agent har at overlevere til Støtte for sin Begjæring, paa en tydelig Maade skal fremstille den Forbrydelse, for hvilken den Person, der fordras udleveret, er domfældt, og derhos angive den Handling, for hvilken, Stedet hvor og Tiden naar han er bleven dømt. De Bevisligheder, der skulle fremlægges for Politimyndigheden, skulles være af saadan Beskaffenhed, at de efter Englands Love vilde begrunde den Fængsledes Domfældelse for den Forbrydelse, som han er sigtet for.

"Efter at Politimyndigheden har befalet, at den anklagede eller domfældte Person skal sættes i Fængsel for der at afvente Statssecretairens Befaling angaaende hans Udlevering, skal den Fængslede have Ret til at forlange 'a writ of *habeas corpus*.' Hvis den Fængslede gjør Brug af denne Ret, skal Udleveringen opsættes, indtil Retten har afgivet sin Kjendelse, og ikkun finde Sted, hvis Kjendelsen gaar den Fængslede imod. I sidste Tilfælde kan Retten enten strax beordre den Fængsledes Udlevering til den dertil bemyndigede Person, uden at afvente Statssecretairens Befaling om hans Udlevering, eller paaany lade ham sætte i Fængsel for der at oppebie denne Befaling.

"Artikel III.

"I Hans Majestæt Kongen af Danmarks Lande, med Undtagelse af Kolonierne og andre Bilande, skal følgende Fremgangsmaade anvendes:—

"I. I det Tilfælde at den Person, der fordras udleveret, er anklaget—

"Skal Begjæringen om Udlevering skee til Hans Majestæt Kongen af Danmarks Udenrigsminister ved Hendes Britiske Majestæts Minister eller diplomatiske Agent i Kjøbenhavn, og denne Begjæring skal være ledsaget (1) af en Fængselingskjendelse, der er udstedt af en

issued by a Judge or Magistrate duly authorized to take cognizance of the acts charged against him in Great Britain; (2) duly authenticated depositions or statements taken on oath before such Judge or Magistrate, clearly setting forth the acts on account of which the fugitive is demanded; and (3) a description of the person claimed, and any other particulars which may serve to identify him.

"The Minister for Foreign Affairs of His Majesty the King of Denmark shall transmit such requisition for surrender to the Minister of Justice of His Majesty the King of Denmark, who, after having ascertained that the crime therein specified is one of those enumerated in the present Treaty, and satisfied himself that the evidence produced is such as, according to Danish law, would justify the committal for trial of the individual demanded, if the crime had been committed in Denmark, shall take the necessary measures for causing the fugitive to be delivered to the person charged to receive him by the Government of Her Britannic Majesty.

"II. In the case of a person convicted—

"The course of proceeding shall be the same as in the preceding case of a person accused, except that the Warrant to be transmitted by the Minister or other Diplomatic Agent of Her Britannic Majesty in support of his requisition, shall clearly set forth the crime of which the person claimed has been convicted, and state the fact, place, and date of his conviction. The evidence to be produced shall be such as would, according to the laws of Denmark, prove that the prisoner was convicted of the crime charged.

Dommer eller anden Retsemdsmand, som er behørig bemyndiget til at gjøre Handlinger, der lægges ham til Last i Storbritannien, til Gjenstand for Undersøgelse: (2) af behørig legaliserede Udsagn og Forklaringer, der ere edeligen afgivne for en saadan Dommer eller Retsemdsmand, og som give en tydelig Fremstilling af de Handlinger, paa Grund af hvilke Udleveringen er begjært: og (3) af en Beskrivelse af den Person, der fordres udlevere, og af en Meddelelse af andre Data, som kunne tjene til af godtgjøre hans Identitet.

"Hans Majestæt Kongen af Danmarks Udenrigsminister fremsender den saaledes modtagne Udleveringsbegjæring til Hans Majestæt Kongen af Danmarks Justitsminister, der, naar han efter anstillet Undersøgelse finder, at Udleveringsbegjæringen har Medhold i denne Traktat, og at det Bevis, der fremlægges, er af saadan Beskaffenhed, at det efter Danmarks Love vilde berettigede til at bringe den Person, hvis Udlevering begjæres, for Domstolene, saafremt den Forbrydelse, for hvilken han sigtes, var bleven begaaet i Danmark, træffer de fornødne Foranstaltninger til den Undvegnes Udlevering til den Person, som af Hendes Britiske Majestæts Regjering er tilbørligt bemyndiget til at modtage ham.

"II. I det Tilfælde at den Person, der fordres udleveret, er domfældt—

"Skal Fremgangsmaaden være den samme som i det foregaaende Tilfælde, hvor den Paagjælden de var anklaget, dog med Undtagelse af, at her det Dokument, som Hendes Britiske Majestæts Minister eller diplomatiske Agent har at overlevere til Støtte for sin Begjæring, paa en tydelig Maade skal fremstille den Forbrydelse, for hvilken den Person, som fordres udleveret, er domfældt, og derhos angive den Handling, for hvilken, samt Stedet hvor og Tiden naar han er bleven dømt. De Bevisligheder, der skulle fremlægges, skulle være af saadan Beskaffenhed, at de efter de danske Love vilde begrunde den Fængslede Domfældelse for den Forbrydelse, for hvilken han sigtes.

"Article IV.

"A fugitive criminal may, however, be apprehended under a warrant issued by any Police Magistrate, Justice of the Peace, or other competent authority in either country, on such information or complaint, and such evidence, or after such proceedings as would, in the opinion of the person issuing the warrant, justify the issue of a warrant, if the crime had been committed or the prisoner convicted, in that part of the dominions of the two Contracting Parties in which he exercises jurisdiction: Provided, however, that in the United Kingdom the accused shall, in such case, be sent as speedily as possible before a Police Magistrate in London; and that in the dominions of His Majesty the King of Denmark, the case shall be immediately submitted to the Minister of Justice of His Majesty the King of Denmark; and provided, also, that the individual arrested shall in either country be discharged, if within fifteen days a requisition shall not have been made for his surrender by the Diplomatic Agent of his country, in the manner directed by Articles II. and III. of this Treaty.

"The same rule shall apply to the cases of persons accused or convicted of any of the crimes specified in this Treaty, committed on the high seas, on board a vessel of either country, which may come into a port of the other.

"Article V.

"If the fugitive criminal who has been committed to prison be not surrendered and conveyed away within two months after such committal (or within two months after the decision of the Court, upon the return to a writ of *habeas corpus* in the United Kingdom), he shall be discharged from custody, unless sufficient cause be shown to the contrary.

"Article VI.

"When any person shall have been surrendered by either of the High Contracting Parties to the other, such person shall not, until

"Artikel IV.

"En undvegen Forbryder kan imidlertid blive anholdt ifølge en Anholdelsesbefaling, der er bleven udstedt af en Politimyndighed, Fredsdommer eller anden kompetent Myndighed, i et af de to Lande ifølge saadan Anmeldeelse eller Klage og saadanne Bevisligheder samt under Iagttagelse af den formlige Fremgangsmaade, som efter dens Mening, der udsteder Anholdelsesbefalingen, vilde retfærdiggjøre sammes Udstedelse; dersom Forbrydelsen var bleven begaaet eller Forbryderen domfældt i den Del af de kontraherende Parterers Territorium, hvor vedkommende Myndighed er kompetent. Dette kan dog kun skee paa den Betingelse, at i saadant Tilfælde den Anklageleser det Forenede Kongerige saa hurtigt som muligt stilles for en Politimyndighed i London, og at Sagen i Hans Majestæts Kongen af Danmarks Lande uopholdelig forelægges for Hans Majestæts Justitsminister, samt at i begge Lande den anholdte Person skal løslades, dersom der ikke inden femten Dages Forløb skeer en Begjæring om hans Udlevering ved hans Lands diplomatiske Agent paa den Maade, som er angiven i Artiklerne II og III i denne Traktat.

"Den samme Regel skal komme til Anvendelse paa Personer, der ere anklagede eller domfældte for nogen af de i denne Traktat opregnede Forbrydelser, naar disse ere begaaede i rum Sø ombord paa et af de to Landes Skibe, og dette maatte være løbet ind i en Havn i det andet Land.

"Artikel V.

"Dersom den undvegne Forbryder, som er bleven fængslet, ikke er bleven undleveret og bortført inden to Maaneder efter Fængslingen (eller inden to Maaneder efter den Domstols Kjendelse, som i det Forenede Kongerige er afsagt ifølge "writ of *habeas corpus*,") skal han løslades af Fængslet, medmindre der kan paavises tilstrækkelig Grund til det Modsatte.

"Artikel VI.

"Naar en Person er bleven udleveret af den ene af de kontraherende Parter til den anden, skal han, saalænge han ikke er bleven til-

he has been restored or had an opportunity of returning to the country from whence he was surrendered, be triable or tried for any offence committed in the other country prior to the surrender, other than the particular offence on account of which he was surrendered.

“ Article VII.

“ No accused or convicted person shall be surrendered, if the offence in respect of which his surrender is demanded shall be deemed by the Government upon which it is made to be one of a political character, or if in the United Kingdom he prove to the satisfaction of the Police Magistrate, or of the Court before which he is brought on *habeas corpus*, or to the Secretary of State, or in Denmark to the satisfaction of the Minister of Justice of His Majesty the King of Denmark, that the requisition for his surrender has, in fact, been made with a view to try or to punish him for an offence of a political character.

“ Article VIII.

“ Warrants, depositions, or statements on oath, issued or taken in the dominions of either of the two High Contracting Parties, and copies thereof, and certificates of or judicial documents stating the fact of conviction, shall be received in evidence in proceedings in the dominions of the other, if purporting to be signed or certified by a Judge, Magistrate, or officer of the country where they were issued or taken, and provided they are authenticated by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of State.

“ Article IX.

“ The surrender shall not take place if, since the commission of the acts charged, the accusation, or the conviction, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the country where

bageleveret eller har havt Leilighed til at vende tilbage til det Land, hvorfra han er bleven udleveret, ikke kunne drages til Ansvar eller dømmes for nogen anden Forbrydelse, som han forinden Udleveringen maatte have begaaet i det andet Land, end den, paa Grund af hvilken han blev undleveret.

“ Artikel VII.

“ En anklaget eller domfældt Person skal ikke udleveres, naar den Part, till hvem Begjæringen om Udlevering er rettet, anseer den Forbrydelse, formedelst hvilken Udleveringen begjæres, som en Forbrydelse af en politisk Karakter, ei heller dersom han i det Forenede Kongerige paa en Maade, der er fyldestgørende for den vedkommende Politimyndighed eller for den Domstol, for hvilken han er stillet ifølge “ a writ of *habeas corpus*,” eller for Statssekreteren og i Danmark for Hans Majestæt Kongens Justitsminister godtgjør, at Begjæringen om hans Udlevering i Virkeligheden skeer i den Hensigt at drage ham til Ansvar eller straffe ham for en Forbrydelse af en politisk Karakter.

“ Artikel VIII.

Fænglings-og Anholdelsesbefalinger, Forklaringer og edelige Vidnesbyrd, der ere udstedte eller optagne i et af de to høie kontraherende Parters Llande, eller Aktsrifter af saadanne, og Attester og Retsdokumenter, som godtgjøre Domfældelsen, skulle tages for gyldige ved Retsforhandlingen i det andet Land, dersom de vise sig at være underskrevne eller bekræftede af en Dommer, Retsbetjent eller anden Embedsmand i det Land, hvor de ere udstedte eller optagne, under Forudsætning af at de ere bekræftede ved Vidners Ed eller ved at være forsynede med Justitsministerens eller en anden Ministers officielle Segl.

“ Artikel IX.

“ Udleveringen skal ikke finde Sted, dersom der, efter at Gjærningen er bleven begaaet, eller Anklagen er reist, eller Dommen er fældet, er forløben saa lang Tid, at Retsforfølgningen eller Straffen er bleven forældet ifølge det Lands

the accused or convicted person shall have taken refuge.

“ Article X.

“ If the individual claimed should be under prosecution, or in custody, for a crime or offence committed in the country where he may have taken refuge, his surrender may be deferred until he shall have been set at liberty in due course of law.

In case he should be proceeded against or detained in such country, on account of obligations contracted towards private individuals, his surrender shall nevertheless take place, the injured party retaining his right to prosecute his claims before the competent authority.

“ Article XI.

“ Every article found in the possession of the individual claimed at the time of his arrest, shall be seized, in order to be delivered up with his person at the time when the surrender shall be made. Such delivery shall not be limited to the property or articles obtained by stealing or by fraudulent bankruptcy, but shall extend to every thing that may serve as proof of the crime. It shall take place even when the surrender, after having been ordered, shall be prevented from taking place by reason of the escape or death of the individual claimed.

“ Article XII.

“ Each of the two Contracting Parties shall defray the expenses occasioned by the arrest within its territories, the detention, and the conveyance to its frontier, of the persons whom it may consent to surrender in pursuance of the present Treaty.

“ Article XIII.

“ The stipulations of the present Treaty shall be applicable to the Colonies or foreign Possessions of the two High Contracting Parties, in the following manner:—

“ The requisition for the surrender of a fugitive criminal who has taken refuge in a Colony or foreign

Love, hvor den Anklage le eller Domfældte har taget Tilflugt.

“ Artikel X.

“ Dersom den Person, som fordres udleveret maatte være under Betsforfølgning eller i Fængsel for en Forbrydelse eller en Forseelse, som er bleven begaaet i det Land, hvor han har taget Tilflugt, kan hans Udlevering udsættes, indtil han atter lovlig er bleven løsladt.

“ Dersom der maatte være anlagt Sag imod ham, eller dersom han maatte være arresteret i dette Land formedelst Forpligtelser, som han maatte have paadraget sig imod private Personer, skal hans Udlevering ikke desto mindre finde Sted, men den formeentlig forurettede Part beholder Ret til at forfølge sin Sag for den kompetente Myndighed.

“ Artikel XI.

“ Enhver Gjenstand, som findes i den Persons Besiddelse, der fordres udleveret, paa den Tid, han fængsles, skal tages i Forvaring, for derefter, samtidig med hans Udlevering, at blive afleveret. Denne Aflevering skal ikke indskrænke sig til den Eiendom og de Gjenstande, som ere erhvervede ved Tyveri eller svigagtig Fallit, men skal udstrække sig til enhver Ting, som kan tjene som Bevis for Forbrydelsen. Den skal fremdeles finde Sted, selv om Udleveringen, efterat der er bleven givet Befaling til samme, forhindres paa Grund af den Persons Undvigelse eller Død, som fordres udleveret.

“ Artikel XII.

“ Enhver af de to kontraherende Parter skal indenfor sit Territorium betale de Omkostninger, som foranlediges ven Anholdelsen, Fængslingen og Transporten til dens Grændser af de Personer, til hvis Udlevering den ifølge nærværende Traktat maatte give sit Samtykke.

“ Artikel XIII.

“ Bestemmelserne i nærværende Traktat skulle komme til Anvendelse paa de to høie kontraherende Parters Kolonier eller Bilande paa følgende Maade:—

“ Begjæringen om Udlevering af en undvegen Forbryder, som har taget Tilflugt til en Koloni eller til

Possession of either of the two Contracting Parties, shall be made to the Governor or Chief Authority of such Colony or Possession by the Chief Consular Officer of the other Party in such Colony or Possession; or, if the fugitive has escaped from a Colony or foreign Possession of the Party on whose behalf the requisition is made, by the Governor or Chief Authority of such Colony or Possession.

“Such requisitions may be disposed of, subject always, as nearly as may be, to the provisions of this Treaty, by the respective Governors or Chief Authorities, who, however, shall be at liberty either to grant the surrender, or to refer the matter to their Government.

“Her Britannic Majesty and His Majesty the King of Denmark shall, however, be at liberty to make special arrangements in their Colonies and and foreign Possessions for the surrender of criminals who may take refuge therein, on the basis, as nearly as may be, of the provisions of the present Treaty.

“Article XIV.

“The present Treaty shall come into operation ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties.

“After the Treaty shall so have been brought into operation, the Convention concluded between the High Contracting Parties on the 15th of April, 1862, shall be considered as cancelled, except as to any proceeding that may have already been taken or commenced in virtue thereof.

“Either Party may at any time terminate the Treaty on giving to the other six months' notice of its intention.

“Article XV.

“The present Treaty shall be ratified, and the ratification shall be exchanged at Copenhagen as soon

et Biland, der tilhører en af de to kontraherende Parter, skal skee til Gouverneuren eller den overordnede Myndighed paa saadan Koloni eller Biland ved den anden Parts øverste konsulare Embedsmand i vedkommende Koloni eller Biland, eller, hvis Undvigelsen har fundet Sted fra en Koloni eller et Biland, der tilhører den Part, i hvis Navn Udleveringen begjæres, ved Gouverneuren eller den øverste Myndighed i den paa gjældende Koloni eller Biland.

“Saadanne Begjæringer om Udlevering kunne afgjøres, dog i saa nøje Overeensstemmelse som muligt med Forskrifterne i denne Traktat, af de respektive Gouverneurer eller øverste Myndigheder, men det skal dog staae dem frit for enten at samtykke i Udleveringen eller at henvise Sagen til deres Regjeringer.

“Hans Majestæt Kongen af Danmark og Hendes Britiske Majestæt skulle dog ogsaa have Ret til at træffe særlige Bestemmelser for deres Koloniers og Bilandes Vedkommende angaaende Udleveringen af de Forbrydere, som maatte tage deres Tilflugt til disse, hvilke Bestemmelser dog skulle holdes saa nær som muligt til Forskrifterne i nærværende Traktat.

“Artikel XIV.

“Den nærværende Traktat skal træde i Kraft 10 Dage efter dens Offentliggjørelse i Overeensstemmelse med de Former, som ere foreskrevne ved Lovgivningen i hvert af de høie kontraherende Parter Lande.

“Naar denne Traktat saaledes er traadt i Kraft, skal den imellem de høie kontraherende Parter under 15 April 1862 afsluttede Konvention anses som ophævet, undtagen forsaavidt der maatte være bleven foretaget eller paabegyndt noget Skridt i Overeensstemmelse med samme.

“Enhver af de to Parter kan til enhver Tid sætte Traktaten ud af Kraft, naar denne Hensigt er bleven meddelt den anden 6 Maaneder i Forveien.

“Artikel XV.

“Denne Traktat skal ratificeres, og Ratifikationerne skulle udveksles i Kjöbenhavn saasnt som muligt i

as may be within four weeks from the date of signature.

"In witness whereof, the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

"Done at Copenhagen, the thirty-first day of March, in the year of our Lord, one thousand eight hundred and seventy-three.

Löbet af fire Uger fra Traktatens Undertegnning.

"Til Bekræftelse heraf have de respective Befuldmægtigede undertegnet denne Traktat og påstrykt samme deres Vaabensegl.

"Givet i Kjöbenhavn den 31 Marts i Herrens Aar Atten Hundrede og Tre og Halvfjerdssindstyve.

"(L.S.) Charles Lennox Wyke.

"(L.S.) O. D. Rosenörn-Lehn."

And whereas the ratifications of the said Treaty were exchanged at Copenhagen on the twenty-sixth day of April last :

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and in virtue of the authority committed to Her by the said recited Act, doth order, and it is hereby ordered, that from and after the seventh day of July, one thousand eight hundred and seventy-three, the said Act shall apply in the case of the said Treaty with the King of Denmark.

Arthur Helps.

(i) Ecuador.

At the Court at Windsor, the 26th day of June, 1886.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.

Lord Steward.

Earl of Rosebery.

Mr. Fowler.

Whereas * * * [*Here follows the first recital to the Order relating to the Argentine Republic, printed at p. 1 above.*]

And whereas in accordance with section 18 of The Extradition Act, 1870,* the Legislature of the Dominion of Canada has, by laws passed in the years 1877 and 1882, and respectively styled The Extradition Act, 1877, and an Act to amend the Extradition Act, 1877,† made provision for carrying into effect within the Dominion the surrender of fugitive criminals who are in, or are suspected of being in, the Dominion :

And whereas a Treaty was concluded on the Twentieth day of September, One thousand eight hundred and eighty, between Her Majesty and the President of the Republic of the Equator, for the mutual extradition of fugitive criminals, which Treaty is in the terms following :—

"Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Excellency the President of the Republic of Ecuador, having judged it expedient, with a view to the better administration of justice, and to the prevention of crime within their

"Su Magestad la Reina del Reino Unido de la Gran Bretaña e Irlanda, y Su Excelencia el Presidente de la República del Ecuador, habiendo juzgado conveniente para la mejor administración de justicia, y para prevenir los crímenes dentro de sus respectivos territorios y juris-

* 33 & 34 Vict. c. 52.

† 40 Vict. c. 25; 45 Vict. c. 20; now repealed and consolidated as The Revised Statutes of Canada, c. 142.

respective territories and jurisdictions, that persons charged with or convicted of the crimes herein-after enumerated, and being fugitives from justice, should under certain circumstances be reciprocally delivered up; Her Britannic Majesty and the President of Ecuador have named as their Plenipotentiaries to conclude a Treaty for this purpose, that is to say:

"Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Frederick Douglas Hamilton, Esquire, her Minister Resident at Ecuador;

"And his Excellency the President of Ecuador, General Cornelio E. Vernaza, Minister of Foreign Affairs and of the Interior;

"Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles:—

" Article I.

"It is agreed that Her Britannic Majesty's Government and that of Ecuador shall, on requisition made in their name by their respective Diplomatic Agents, deliver up to each other reciprocally any persons who, being accused or convicted of any of the crimes hereinafter specified, committed within the jurisdiction of the requiring Party, shall be found within the territories of the other Party:—

"1. Murder, or attempt or conspiracy to murder.

"2. Manslaughter.

"3. Counterfeiting or altering money, or uttering counterfeit or altered money.

"4. Forgery, counterfeiting, or altering, or uttering what is forged or counterfeited or altered.

"5. Embezzlement or larceny.

"6. Obtaining money or goods by false pretences.

"7. Crimes against bankruptcy law.

"8. Fraud by a bailee, banker, agent, factor, trustee, or director, or member or public officer of any company made criminal by any law for the time being in force.

dicciones, que las personas acusadas ó convictas de los crímenes enumerados en seguida, y que estando fugitivas de la justicia deban, bajo ciertas circunstancias, ser entregadas reciprocamente; Su Magestad la Reina de la Gran Bretaña e Irlanda y el Presidente del Ecuador han nombrado sus Plenipotenciarios respectivos para celebrar un Tratado con este fin, es decir:

"Su Magestad la Reina del Reino Unido de la Gran Bretaña e Irlanda, al Señor Federico Douglas Hamilton (Escudero), su Ministro Residente en el Ecuador;

"Y su Excelencia el Presidente del Ecuador, al Señor General Cornelio E. Vernaza, Ministro del Interior y de Relaciones Exteriores;

"Quienes, después de haberse comunicado sus plenos poderes, y encontrádoslos en buena y debida forma, han convenido y estipulado los Artículos siguientes:—

" Artículo I.

"Se ha convenido en que el Gobierno de Su Magestad Británica y el del Ecuador deberán, previo pedimento hecho en su nombre por sus respectivos Agentes Diplomáticos, entregarse reciprocamente cualesquiera personas que siendo acusadas ó convictas de cualquiera de los crímenes puntualizados en seguida, cometidos dentro de la jurisdicción de la parte solicitante, sean encontrados dentro del territorio de la otra parte:—

"1. Asesinato, ó tentativa ó conspiración para asesinar.

"2. Homicidio.

"3. Falsificación, ó alteración de moneda, ó circulación de moneda falsificada ó alterada.

"4. Falsificación, contrahechimiento, ó alteración ó circulación de lo falsificado, contrahecho ó alterado.

"5. Hurto, ocultación de bienes de una herencia aun no aceptada por el heredero, ó ratería.

"6. Obtener moneda ú otros efectos por medio de falsos pretextos.

"7. Crímenes contra las leyes de la bancarrota.

"8. Fraude por un individuo libre bajo fianza, banquero, agente, factor, síndico ó curador, director, miembro ó empleado público de alguna compañía, declarado criminal por ley vijente en ese tiempo.

- " 9. Rape.
- " 10. Abduction.
- " 11. Child stealing.
- " 12. Burglary or housebreaking.
- " 13. Arson.
- " 14. Robbery with violence.
- " 15. Threats by letter or otherwise with intent to extort.
- " 16. Piracy by law of nations.
- " 17. Sinking or destroying a vessel at sea, or attempting or conspiring to do so.
- " 18. Assaults on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.

" 19. Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the captain or master.

" Provided that the surrender shall be made only when, in the case of a person accused, the commission of the crime shall be so established as that the laws of the country where the fugitive or person so accused shall be found would justify his apprehension and commitment for trial if the crime had been there committed; and, in the case of a person alleged to have been convicted, on such evidence as, according to the laws of the country where he is found, would prove that he had been convicted.

" Article II.

" In the dominions of Her Britannic Majesty, other than the foreign or colonial possessions of Her Majesty, the manner of proceeding shall be as follows:—

" 1. In the case of a person accused:—

" The requisition for the surrender shall be made to Her Britannic Majesty's Principal Secretary of State for Foreign Affairs by some person recognised by the Secretary of State as a Diplomatic Representative of the Republic of Ecuador, accompanied by a warrant or other equivalent judicial document for the arrest of the accused, issued by a Judge or Magistrate duly authorized to take cognizance of the acts charged against him in Ecuador, together with duly authenticated

- " 9. Estupro con violencia.
 - " 10. Abduccion.
 - " 11. Robo de niños.
 - " 12. Robo nocturno, ó entrada en una casa con violencia con el objeto de robar.
 - " 13. Incendio intencional.
 - " 14. Robo con violencia.
 - " 15. Amenazas por escrito ó de cualquier otra manera con el objeto de cometer algun acto de estorsion.
 - " 16. Pirateria segun el derecho de gentes.
 - " 17. Hundimiento ó destruccion de una embarcacion en el mar, ó tentativa ó conspiracion con este objeto.
 - " 18. Asaltos á bordo de un buque en alta mar, con el intento de quitar la vida ó de causar graves daños corporales.
 - " 19. Rebelion ó tentativa de rebelion ejecutada por dos ó mas personas á bordo de un buque en alta mar, contra la autoridad del capitan ó patron.
- " Con tal que la entrega, en el caso de una persona acusada, se haga únicamente cuando se puntualice la perpetracion del crimen de manera que las leyes del pais en que sea hallado el fúgitivo ó persona acusada justifiquen su captura y enjuiciamiento si allí se hubiese cometido el crimen; y en el caso en que se declare convicta á una persona en mérito de pruebas que, segun las leyes del pais en que ella sea hallada, bastarian para tenerla por convicta.

" Artículo II.

" En los dominios de Su Majestad Británica distintos de las posesiones coloniales ó extranjeras de Su Majestad, el procedimiento será como sigue:—

" 1. En el caso de una persona acusada:—

" El pedimento de entrega se hará al Principal Secretario de Estado de Negocios Extranjeros de Su Majestad, por cualquiera persona reconocida por el Secretario de Estado como un Agente Diplomático de la República de Ecuador, acompañado de un testimonio ó otro documento judicial equivalente, para proceder al arresto del acusado, expedido por un Juez ó Magistrado debidamente autorizado para conocer de los actos de que ha sido acusada la persona en el

depositions or statements taken on oath before such Judge or Magistrate, clearly setting forth the said acts, and a description of the person claimed, and any particulars which may serve to identify him. The said Secretary of State shall transmit such documents to Her Britannic Majesty's Principal Secretary of State for the Home Department, who shall then, by order under his hand and seal, signify to some Police Magistrate in London that such requisition has been made, and require him, if there be due cause, to issue his warrant for the apprehension of the fugitive.

“ On the receipt of such order from the Secretary of State, and on the production of such evidence as would, in the opinion of the Magistrate, justify the issue of the warrant if the crime had been committed in the United Kingdom, he shall issue his warrant accordingly.

“ When the fugitive shall have been apprehended in virtue of such warrant, he shall be brought before the Police Magistrate who issued it, or some other Police Magistrate in London. If the evidence to be then produced shall be such as to justify, according to the law of England, the committal for trial of the prisoner if the crime of which he is accused had been committed in England, the Police Magistrate shall commit him to prison to await the warrant of the Secretary of State for his surrender; sending immediately to the Secretary of State a certificate of the committal and a report upon the case,

“ After the expiration of a period from the committal of the prisoner, which shall never be less than fifteen days, the Secretary of State shall, by order under his hand and seal, order the fugitive criminal to be surrendered to such person as may be duly authorized to receive him on the part of the Government of Ecuador.

“ 2. In the case of a person convicted :—

“ The course of proceeding shall be the same as in the case of a person accused, except that the warrant to be transmitted by the

Ecuador, juntamente con las deposiciones debidamente autenticadas ó relaciones hechas con juramento ante un Juez ó Magistrado, manifestando con claridad dichos actos, y una descripción de la persona reclamada, y todos los particulares que conduzcan á identificarla. Dicho Secretario de Estado transmitirá los documentos expresados al Principal Secretario de Estado en el despacho del Interior de Su Magestad, quien por una orden firmada y sellada de su mano hará saber á algun Magistrado de Policía de Londres que tal demanda ha sido hecha, y le requerirá, si hubiere causa suficiente, para que expida la cédula de arresto contra el fugitivo.

“ Con el recibo de la orden del Secretario de Estado, y con la producción de suficiente prueba en opinión del Magistrado que justificase la expedición del auto si el crimen hubiese sido cometido en el Reino Unido, expedirá en consecuencia la respectiva cédula.

“ Cuando el fugitivo hubiere sido aprehendido en virtud de tal auto, será conducido ante el Magistrado de Policía que lo expidió, ó ante otro de igual clase de Londres. Si la prueba que deba entonces producirse fuere tal que justificase, según las leyes de Inglaterra, el sometimiento á juicio del preso, si el crimen de que hubiese sido acusado lo hubiese cometido en Inglaterra, el Magistrado de Policía le someterá á prision para esperar el decreto de entrega expedido por el Secretario de Estado, enviando inmediatamente al Secretario de Estado un certificado de la prision practicada, y un informe del caso.

“ Despues de expirado el periodo de detencion del preso, que nunca debe ser de menos de quince dias, el Secretario de Estado, por orden firmada y sellada de su mano, ordenará que el criminal fugitivo sea entregado á la persona que esté debidamente autorizada para recibirle de la parte del Gobierno del Ecuador.

“ 2. En el caso de una persona convicta :—

“ El curso del procedimiento será el mismo que en el de una persona acusada, excepto que el auto que sea transmitido por el

recognized Diplomatic Representative, in support of his requisition, shall clearly set forth the crime of which the person claimed has been convicted, and state the fact, place, and date of his conviction. The evidence to be produced before the Police Magistrate shall be such as would, according to the law of England, prove that the prisoner was convicted of the crime charged.

"After the Police Magistrate shall have committed the accused or convicted person to prison to await the order of a Secretary of State for his surrender, such person shall have the right to apply for a writ of *habeas corpus*. If he should so apply, his surrender must be deferred until after the decision of the Court upon the return to the writ, and even then can only take place if the decision is adverse to the applicant. In the latter case the Court may at once order his delivery to the person authorized to receive him, without the order of a Secretary of State for his surrender, or commit him to prison to await such order. A like proceeding shall be observed towards criminals in prison in Ecuador.

"Article III.

"In the Republic of Ecuador the manner of proceeding shall be as follows:—

"1. In the case of a person accused:

"The requisition for the surrender shall be made to the Minister for Foreign Affairs of Ecuador by the Minister or other Diplomatic Agent of Her Britannic Majesty, accompanied by a warrant for the arrest of the accused, issued by a Judge or Magistrate duly authorized to take cognizance of the acts charged against him in Great Britain, together with duly authenticated depositions or statements taken on oath before such Judge or Magistrate, clearly setting forth the said acts, and a description of the person claimed, and any other particulars which may serve to identify him.

"The said documents shall be transmitted to the Minister Secretary of State for the Interior Department, who shall then, by order

Agente Diplomático reconocido, en apoyo de su solicitud, manifestará con claridad el crimen del cual la persona reclamada haya sido convicta, y relacionará el hecho, lugar, y fecha de su convicción. La prueba que deba producirse ante el Magistrado de Policía debe ser tal que, en conformidad con las leyes de Inglaterra, probare que el preso fuese convicto del crimen que se le acusa.

"Después de que el Magistrado de Policía haya puesto en prisión á la persona acusada ó convicta para esperar la orden de un Secretario de Estado para su entrega, dicha persona tendrá derecho de pedir un escrito de *habeas corpus*. Si ella lo efectuare así, su entrega debe ser diferida hasta después de la decisión de la Corte sobre el pedimento de dicho escrito, y aun entonces tendrá lugar solamente si la decisión fuese adversa al recurrente. En este último caso puede la Corte ordenar la inmediata entrega á la persona autorizada para recibirle, sin orden del Secretario de Estado sobre dicha entrega, ó someterlo á prisión para aguardar la orden. Igual procedimiento se observará respecto de los delinquentes puestos en prisión en el Ecuador.

"Artículo III.

"En la República del Ecuador, el procedimiento será como sigue:—

"1.º. En el caso de una persona acusada:

"La petición para la entrega se hará al Ministro de Relaciones Exteriores del Ecuador por el Ministro ú otro Agente Diplomático de Su Magestad Británica, acompañada de un auto de arresto del acusado expedido por un Juez ó Magistrado debidamente autorizado para conocer de los actos de que se le acusare en la Gran Bretaña, junto con las deposiciones bien autenticadas, ó relaciones hechas con juramento ante dicho Juez ó Magistrado, manifestando con claridad los actos expresados, y una descripción de la persona reclamada y otras particularidades que puedan servir para identificarla.

"Dichos documentos se transmitirán al Ministro Secretario de Estado en el Departamento del Interior, quien entonces, por orden

under his hand and seal, signify to some Police Magistrate that such requisition has been made, and require him, if there be due cause, to issue his warrant for the apprehension of the fugitive.

"On the receipt of such order from the Minister Secretary of State, and on the production of such evidence as would justify the issue of the warrant, if the crime had been committed in Ecuador, he shall issue his warrant accordingly.

"When the fugitive shall have been apprehended in virtue of such warrant he shall be brought before the Police Magistrate who issued it, or some other authority of the same class. If the evidence to be then produced shall be such as to justify, according to the law of Ecuador, the committal for trial of the prisoner if the crime of which he is accused had been committed in Ecuador, the Police Magistrate shall commit him to prison to await the warrant of the Secretary of State for his surrender, sending immediately to the Secretary of State a certificate of the committal and a report upon the case.

"After the expiration of a period from the committal of the prisoner, which shall never be less than fifteen days, the Secretary of State shall, by order under his hand and seal, order the fugitive criminal to be surrendered to such person as may be duly authorized to receive him on the part of the Government of Her Majesty.

"2. In the case of a person convicted:—

"The course of proceeding shall be the same as in the case of a person accused, except that the warrant to be transmitted by the Minister or other Diplomatic Agent in support of his requisition shall clearly set forth the crime of which the person claimed has been convicted, and state the fact, place, and date of his conviction. The evidence to be produced before the Magistrate charged with the investigation of the case shall be such as would, according to the laws of Ecuador, prove that the prisoner was convicted of the crime charged.

"Article IV.

"A fugitive criminal may, however, be apprehended under a

firmada y sellada de su mano, hará saber á algun empleado de Policia que tal demanda ha sido hecha, y le requerirá, si hubiere causa suficiente, para que expida el mandamiento de arresto contra el fugitivo.

"Con el recibo de la orden del Ministro Secretario de Estado, y con la produccion de suficiente prueba que justifique la expedicion del auto si el crimen hubiese sido cometido en el Ecuador, expedirá en consecuencia la boleta de prision.

"Cuando el fugitivo hubiere sido aprehendido en virtud de tal boleta, será conducido ante el empleado de Policia que la expidió ó ante otro de igual clase. Si la prueba que deba antóncoes producirse fuere tal que justificase, segun las leyes del Ecuador, el sometimiento á juicio del preso, si el crimen de que hubiese sido acusado lo hubiese cometido en el Ecuador, el empleado de Policia le someterá á prision para esperar el decreto de entrega expedido por el Secretario de Estado, enviando inmediatamente á este un certificado de la prision practicada y un informe del caso.

"Despues de expirado el periodo de detencion del preso, que nunca debe ser de ménos de quince dias, el Secretario de Estado, por orden firmada y sellada de su mano, ordenará que el criminal fugitivo sea entregado á la persona que esté debidamente autorizada para recibirle de parte del Gobierno de Su Magestad Británica.

"2. En el caso de una persona convicta:—

"El curso del procedimiento será el mismo que en el de una persona acusada, excepto que el auto que deba ser trasmitido por el Ministro ú otro Agente Diplomático en apoyo de su pedimento, deberá manifestar claramente el crimen del que la persona reclamada ha sido convenida, y determinar el hecho, lugar, y fecha de su conviccion. Las pruebas que deban producirse ante el Magistrado encargado de la investigacion del caso deben ser tales que, segun las leyes del Ecuador, probaren que el preso fuese convicto del crimen del que se le acusa.

"Artículo IV.

"El criminal fugitivo puede sin embargo ser apprehendido por un

warrant issued by any Police Magistrate or other competent authority in either country, on such information or complaint, and such evidence, or after such proceedings as would, in the opinion of the person issuing the warrant, justify the issue of a warrant if the crime had been committed or the prisoner convicted in that part of the dominions of the two Contracting Parties in which he exercises jurisdiction: Provided, however, that in the United Kingdom the accused shall, in such case, be sent as speedily as possible before a Police Magistrate in London, and that he shall be discharged, if within thirty days a requisition shall not have been made for his surrender by the Diplomatic Agent of his country, in the manner directed by Articles II. and III. of this Treaty.

"The same rule shall apply to the cases of persons accused or convicted of any of the crimes specified in this Treaty, committed on the high seas, on board any vessel of either country, which may come into any port of the other.

" Article V.

"If the fugitive criminal who has been committed to prison be not surrendered and conveyed away within two months after such committal, or within two months after the decision of the Court, upon the return to a writ of *habeas corpus* in the United Kingdom, he shall be discharged from custody, unless sufficient cause be shown to the contrary.

" Article VI.

"When any person shall have been surrendered by either of the High Contracting Parties to the other, such person shall not, until he has been restored, or had an opportunity of returning to the country from whence he was surrendered, be triable or tried for any offence committed in the other country prior to the surrender, other than the particular offence on account of which he was surrendered.

auto expedido por cualquiera Magistrado de Policía ó otra autoridad competente en cada uno de los dos países, con tales informaciones ó quejas y pruebas, ó despues de tales procedimientos que en opinion de la persona que expida el auto, justifiquen la expedicion de un auto si el crimen hubiese sido cometido ó el prisionero convicto en aquella parte de los dominios de las dos Partes Contratantes en la cual el Magistrado ó otra autoridad competente ejerza jurisdiccion; sin embargo que en el Reino Unido el acusado, en tal caso, será enviado con la brevedad posible ante un Magistrado de Policía en Londres, y que será puesto en libertad, si dentro de treinta dias no se hubiese hecho una solicitud para la entrega, por el Agente Diplomático de su país de la manera prescrita en los Artículos II. y III. de este Tratado.

"Las mismas reglas se observarán en los casos de personas acusadas ó convictas de cualquiera de los crímenes especificados en este Tratado, cometidos en alta mar ó abordo de cualquiera embarcacion de uno de los dos países que pueda entrar á uno de los puertos del otro.

" Artículo V.

"Si el fugitivo criminal que ha sido sometido á prision no fuere entregado ó llevado á fuera en el término de dos meses despues del arresto, ó dentro de dos meses despues de la decision de la Corte sobre el escrito de *habeas corpus* en el Reino Unido ó en el Ecuador, será puesto en libertad, á ménos que causa suficiente se demostrare en contrario.

" Artículo VI.

"Cuando alguna persona hubiere sido entregada por una de las Altas Partes Contratantes á la otra, tal persona, mientras no haya sido devuelta ó haya tenido una oportunidad de volver al país de donde fué entregada, no podrá ser sometida á juicio ni juzgada por ningun delito cometido en el otro país anteriormente á la entrega, á no ser por el delito particular por cuya causa fué entregada.

" Article VII.

" In any case where an individual convicted or accused in Ecuador of any of the crimes described in the present Treaty, and who shall have taken refuge in the United Kingdom, shall have obtained naturalization there, such naturalization shall not prevent the search for, arrest, and surrender of such individual to the Ecuadorian authorities, in conformity with the said Treaty.

" In like manner the surrender shall take place on the part of Ecuador in any case where an individual accused or convicted in England of any of the same crimes who shall have taken refuge in Ecuador shall have obtained naturalization there.

" Article VIII.

" No accused or convicted person shall be surrendered, if the offence in respect of which his surrender is demanded shall be deemed by the party upon whom it is made to be one of a political character, or if he prove to the satisfaction of the Police Magistrate, or of the Court before which he is brought on *habeas corpus*, or to the Secretary of State, that the requisition for his surrender has, in fact, been made with a view to try or to punish him for an offence of a political character.

" Article IX.

" Warrants, depositions, or statements on oath, issued or taken in the dominions of either of the two High Contracting Parties, and copies thereof, and certificates of or judicial documents stating the fact of conviction, shall be received in evidence in proceedings in the dominions of the other if purporting to be signed or certified by a Judge, Magistrate, or officer of the country where they were issued or taken.

" Provided such warrants, depositions, statements, copies, certificates, and judicial documents are authenticated by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of State.

" Artículo VII.

" En cualquiera caso en que un convicto ó acusado en el Ecuador de alguno de los crímenes detallados en el presente Tratado, y que se hubiere refugiado en el Reino Unido y obtenido naturalización allí, tal naturalización no impedirá la busca, arresto y entrega del individuo á las autoridades del Ecuador, en conformidad con dicho Tratado. De igual manera la entrega se verificará de parte del Ecuador, en cualquiera caso en que un individuo acusado ó convicto en Inglaterra de cualquiera de los mismos delitos se hallare refugiado en el Ecuador y hubiere obtenido allí naturalización.

" Artículo VIII.

" Ninguna persona acusada ó convicta será entregada, si el delito por el cual se demanda su entrega se estima por la parte á quien se solicita ser de carácter político, ó si la persona probare á satisfacción del Magistrado de Policía ó de la Corte ante la cual es conducido en *habeas corpus*, ó del Secretario de Estado, que el pedimento de su entrega ha sido, en efecto, hecho con la mira de juzgarle y castigarle por un delito de carácter político.

" Artículo IX.

" Los autos, deposiciones, ó relaciones bajo juramento, expedidos ó tomados en los dominios de cualquiera de las dos Altas Partes Contratantes, las copias de ellos y certificados ó documentos judiciales que establecen el hecho de la convicción, serán recibidos en prueba en los procedimientos que se sigan en los dominios de la otra, siempre que se encuentren firmados ó certificados por un Juez, Magistrado ó alguacil del país de donde han sido expedidos ó tomados.

" Con tal que dichos autos, deposiciones, relaciones, copias, certificados, y documentos judiciales sean autenticados con el juramento de algun testigo, ó sellados con el sello oficial de Ministro de Justicia ó de algun otro Ministro de Estado.

" Article X.

"The surrender shall not take place if, since the commission of the acts charged, the accusation, or the conviction, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the country where the accused shall have taken refuge.

" Article XI.

"If the individual claimed by one of the two Contracting Parties, in pursuance of the present Treaty, should be also claimed by one or several other Powers, on account of other crimes committed upon their territory, his surrender shall, in preference, be granted in compliance with that demand which is earliest in date.

" Article XII.

"If the individual claimed should be under prosecution, or in custody, for a crime or offence committed in the country where he may have taken refuge, his surrender may be deferred until he shall have been set at liberty in due course of law.

"In case he should be proceeded against or detained in such country on account of obligations contracted towards private individuals, his surrender shall nevertheless take place, the injured party retaining, his right to prosecute his claims before the competent authority.

" Article XIII.

"Every article found in the possession of the individual claimed at the time of his arrest shall be seized, in order to be delivered up with his person at the time when the surrender shall be made. Such delivery shall not be limited to the property or articles obtained by stealing or by fraudulent bankruptcy, but shall extend to everything that may serve as proof of the crime. It shall take place even when the surrender, after having been ordered, shall be prevented from taking place by reason of the escape or death of the individual claimed.

" Article XIV.

"Each of the two Contracting Parties shall defray the expenses

" Artículo X.

"La entrega no se efectuará si, desde la comision de los actos imputados, ó desde la acusacion ó conviccion, el lapso del tiempo hubiese eximido al delincuente del enjuiciamiento ó del castigo, segun las leyes del pais en donde el acusado se hallare refugiado.

" Artículo XI.

"Si el individuo reclamado por una de las Partes Contratantes, en ejecucion del presente Tratado, fuere tambien reclamado por una ó varias Potencias, con motivo de otros crímenes cometidos en sus territorios, la entrega se hará con preferencia á aquella cuyo reclamo se haya hecho con fecha anterior.

" Artículo XII.

"Si el individuo reclamado estuviere enjuiciado, ó en custodia, por un crimen ó delito cometido en el pais donde se haya refugiado, su entrega puede ser diferida hasta que hubiere sido puesto en libertad, en el debido curso legal.

"En caso de que se hallare encausado ó detenido en dicho pais por causa de obligaciones contraídas con individuos particulares, su entrega se verificará, no obstante, reservándose la parte agraviada su derecho para continuar sus reclamos ante la autoridad competente.

" Artículo XIII.

"Tudo objeto encontrado en poder del individuo reclamado, al tiempo de su arresto, será recaudado para entregarlo junto con su persona quando deba verificarse su entrega. Tal devolucion no se limitará á los artículos obtenidos por robo ó quiebra fraudulentas, sino que se extenderá á todas las cosas que puedan servir como prueba del delito. Esto se verificará aun quando, despues de ordenada la entrega de la persona, no hubiere tenido efecto por causa de la fuga ó muerte del individuo reclamado.

" Artículo XIV.

"Cada una de las dos Partes Contratantes costeará los gastos

occasioned by the arrest within its territories, the detention, and the conveyance to its frontier, of the persons whom it may consent to surrender in pursuance of the present Treaty.

“ Article XV.

“ The stipulations of the present Treaty shall be applicable to the foreign or colonial possessions of the two High Contracting Parties.

“ The requisition for the surrender of a fugitive criminal who has taken refuge in a foreign or colonial possession of either Party, shall be made to the Governor or chief authority of such possession by the Chief Consular Officer of the other at the seat of Government; or, if the fugitive has escaped from a foreign or colonial possession of the Party on whose behalf the requisition is made, by the Governor or chief authority of such possession.

“ Such requisitions may be disposed of, subject always, as nearly as may be, to the provisions of this Treaty, by the respective Governors or chief authorities, who, however, shall be at liberty either to grant the surrender, or to refer the matter to their Government.

“ Her Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of Ecuadorian criminals who may take refuge within such Colony, on the basis, as nearly as may be, of the provisions of the present Treaty.

“ Article XVI.

“ The present Treaty shall come into operation two months after the exchange of the ratifications. Due notice shall in each country be given of the day.

“ Either Party may at any time terminate the Treaty on giving to the other six months' notice of its intention.

“ Article XVII.

“ The present Treaty shall be ratified, and the ratifications shall

ocasionados por el arresto dentro de su territorio, la detencion y la remision á su frontera, de las personas que consienta en entregar en conformidad del presente Tratado.

“ Artículo XV.

“ Las estipulaciones del presente Tratado serán aplicables á las posesiones coloniales ó extranjeras de las dos Altas Partes Contratantes.

“ La peticion de extradicion de un criminal fugitivo que se hubiere refugiado en una colonia ó posesion extranjera de cualquiera de las Partes, se hará al Gobernador ó autoridad principal de tal posesion ó colonia, por el principal Agente Consular de la otra Parte en el asiento del Gobierno; ó si el fugitivo se ha fugado de una posesion extranjera ó colonial de la Parte en cuyo favor se ha hecho la peticion, por el Gobernador ó autoridad principal de dicha posesion ó colonia.

“ Tales peticiones pueden ser despachadas, sujetándose siempre con la mayor estrictez posible á las prescripciones de este Tratado por los respectivos Gobernadores ó autoridades principales, quienes, sin embargo, podrán, ó conceder la entrega, ó referir á su Gobierno el asunto en cuestion.

“ Su Magestad Británica podrá, no obstante, hacer especiales arreglos en las colonias Inglesas ó posesiones extranjeras, para la entrega de los criminales Ecuatorianos que se hayan refugiado dentro de tal colonia, ó posesion bajo las bases mas posiblemente exactas á las que se prescriben en le presente Tratado.

“ Artículo XVI.

“ El presente Tratado comenzará á surtir sus efectos dos meses despues del cange de las ratificaciones. En cada país se dará el correspondiente aviso del día.

“ Cualquiera de las Partes puede en cualquiera tiempo terminar el Tratado, dando á la otra el aviso de su intencion con seis meses de anticipacion.

“ Artículo XVII.

“ El presente Tratado será ratificado, y cangeadas las ratificaciones

be exchanged at the capital of Ecuador within eight months after the approbation of the Legislative Power according to the laws of each country.

"In witness whereof the respective Plenipotentiaries have signed the same in duplicate, and have affixed thereto the seal of their arms.

"Done at Quito, capital of the Republic of Ecuador, the 20th September, one thousand eight hundred and eighty.

en la capital de Ecuador dentro de ocho meses despues de aprobado por el Poder Legislativo, en conformidad á las leyes de cada país.

"En testimonio de lo cual los Plenipotenciarios respectivos firman la presente Convencion, dos de un tenor, y ponen sus sellos.

"Hecha en Quito, capital de la República del Ecuador á veinte de Setiembre, de mil ocho cientos ochenta.

"(L.S.) *Frec. Douglas Hamilton.*

"(L.S.) *Cornelio E. Vernaza.*"

And whereas the ratifications of the said Treaty were exchanged at Quito on the nineteenth day of February one thousand eight hundred and eighty-six ;

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and in virtue of the authority committed to Her by the said recited Acts, doth order, and it is hereby ordered, that from and after the second day of July one thousand eight hundred and eighty-six, the said Acts shall apply in the case of the Equator, and of the said Treaty with the Republic of the Equator.

Provided always, and it is hereby further ordered that the operation of the said Acts shall be suspended within the Dominion of Canada so far as relates to the Republic of the Equator and to the said Treaty, and so long as the provisions of the Canadian Acts aforesaid continue in force, and no longer.

C. L. Peel.

(j) **France.**

At the Court at Windsor, the 16th day of May, 1878.

PRESENT :

The Queen's Most Excellent Majesty in Council.

Whereas by an Act of Parliament made and passed in the Session of Parliament holden in the thirty-third and thirty-fourth years of the reign of Her present Majesty, intituled "An Act for amending the Law relating to the Extradition of Criminals,"* and also by an Act of Parliament made and passed in the Session of Parliament holden in the thirty-sixth and thirty-seventh years of the reign of Her present Majesty, intituled "An Act to amend the "Extradition Act, 1870,"† it was amongst other things enacted, that where an arrangement has been made with any foreign State with respect to the surrender to such State of any fugitive criminals, Her Majesty may, by Order in Council, direct that the said Acts shall apply in the case of such foreign State ; and that Her Majesty may by the same or any subsequent Order, limit the operation of the Order, and restrict the same to fugitive criminals who are in or suspected of being in the part of Her Majesty's dominions specified in the Order, and render the operation thereof subject to such conditions, exceptions, and qualifications as may be deemed expedient :

And whereas a Treaty was concluded on the fourteenth day of August, one thousand eight hundred and seventy-six, between

* The Extradition Act, 1870 (33 & 34 Vict. c. 52).

† The Extradition Act, 1873 (36 & 37 Vict. c. 60).

Her Majesty and the President of the French Republic, for the Mutual Extradition of Fugitive Criminals, which Treaty is in the terms following :—*

“ Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the President of the French Republic, having recognised the insufficiency of the provisions of the Treaty concluded on the 13th of February, 1843, between Great Britain and France for the reciprocal extradition of criminals, have resolved, by common accord, to replace it by another and more complete Treaty, and have named as their respective Plenipotentiaries for this purpose, that is to say :—

“ Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honourable Richard Bickerton Pemell Lord Lyons, a Peer of the United Kingdom of Great Britain and Ireland, Knight Grand Cross of the Most Honourable Order of the Bath, one of Her Britannic Majesty's Most Honourable Privy Council, and Her said Majesty's Ambassador Extraordinary and Plenipotentiary to the Government of the French Republic, &c., &c., &c. ;

“ And the President of the French Republic, M. le Duc Decazes, Member of the Chamber of Deputies, Minister of Foreign Affairs, Grand Officer of the National Order of the Legion of Honour, &c., &c., &c. ;

“ Who, after having communicated to each other their respective full powers (found in good and due form) have agreed upon the following Articles :—

“ Article I.

“ The High Contracting Parties engage to deliver up to each other those persons who are being proceeded against or who have been convicted of a crime committed in the territory of the one Party, and who shall be found within the territory of the other Party, under the circumstances and conditions stated in the present Treaty.

“ Article II.

“ Native-born or naturalized subjects of either country are excepted from extradition. In the case, however, of a person who, since the commission of the crime or offence of which he is accused, or for which he has been convicted, has become naturalized in the country whence the surrender is sought, such naturalization shall not prevent the pursuit, arrest and extradition of

“ Sa Majesté la Reine du Royaume Uni de la Grande Bretagne et d'Irlande et le Président de la République Française, ayant reconnu l'insuffisance des dispositions de la Convention conclue, le 13 Février 1843, entre la Grande Bretagne et la France, pour l'extradition réciproque des malfaiteurs, ont résolu, d'un commun accord, de la remplacer par une autre Convention plus complète et ont nommé, à cet effet, pour leurs Plénipotentiaires respectifs :

“ Sa Majesté la Reine du Royaume Uni de la Grande Bretagne et d'Irlande, le Très-Honorable Richard Bickerton Pemell Lord Lyons, Pair du Royaume Uni, Chevalier Grand Croix du Très-Honorable Ordre du Bain, Membre du Très-Honorable Conseil Privé de Sa Majesté Britannique, Son Ambassadeur Extraordinaire et Plénipotentiaire près le Gouvernement de la République Française, &c., &c., &c.

“ Et le Président de la République Française, M. le Duc Decazes, Membre de la Chambre des Députés, Ministre des Affaires Étrangères, Grand Officier de l'Ordre National de la Légion d'Honneur, &c., &c., &c. ;

“ Lesquels, après s'être communiqué leurs pleins pouvoirs respectifs, trouvés en bonne et due forme, sont convenus des Articles suivants :

“ Article I.

“ Les Hautes Parties Contractantes s'engagent à se livrer réciproquement les individus poursuivis ou condamnés pour un crime commis sur le territoire de l'autre dans les circonstances et sous les conditions prévues par le présent Traité.

“ Article II.

“ Les nationaux respectifs, soit d'origine, soit par l'effet de la naturalisation, sont exceptés de l'extradition ; toutefois, s'il s'agit d'une personne qui, depuis le crime ou le délit dont elle est accusée ou pour lequel elle a été condamnée, aurait obtenu la naturalisation dans le pays requis, cette circonstance n'empêchera pas la recherche, l'arrestation et l'extradition de cette

* This Treaty was by Arrangement of Dec. 31. 1889 extended (with a modification of Article IX.) to Tunis. See Order of May 1, 1890, printed below, under “Tunis.”

such person, in conformity with the stipulations of the present Treaty.

personne, conformément aux stipulations du présent Traité.

" Article III.

" The crimes for which the extradition is to be granted are the following:--

" 1. Counterfeiting or altering money, and uttering counterfeit or altered money.

" 2. Forgery, counterfeiting or altering and uttering what is forged, counterfeited or altered.

" 3. Murder (including assassination, parricide, infanticide and poisoning) or attempt to murder.

" 4. Manslaughter.

" 5. Abortion.

" 6. Rape.

" 7. Indecent assault, acts of indecency even without violence upon the person of a girl under 12 years of age.

" 8. Child-stealing, including abandoning, exposing or unlawfully detaining.

" 9. Abduction.

" 10. Kidnapping and false imprisonment.

" 11. Bigamy.

" 12. Wounding or inflicting grievous bodily harm.

" 13. Assaulting a Magistrate, or peace or public officer.

" 14. Threats by letter or otherwise with intent to extort.

" 15. Perjury or subornation of perjury.

" 16. Arson.

" 17. Burglary or house-breaking, robbery with violence.

" 18. Fraud by a bailee, banker, agent, factor, trustee, or director, or member, or public officer of any Company made criminal by any Act for the time being in force.

" 19. Obtaining money, valuable security, or goods by false pretences,

" Article III.

" Les crimes délits pour lesquels il y aura lieu à extradition sont les suivants:--

" 1. Contrefaçon ou altération de monnaies contrefaites ou altérées.

" 2. Faux ou usage de pièces fausses; contrefaçon des sceaux de l'Etat, poinçons, timbres et marques publics, ou usage des dits sceaux, poinçons, timbres et marques publics contrefaits.

" 3. Meurtre (assassinat, parricide, infanticide, empoisonnement), ou tentative de meurtre.

" 4. Coups et blessures volontaires ayant occasionné la mort, sans intention de la donner; homicide par imprudence, négligence, maladresse, inobservation des règlements.

" 5. Avortement.

" 6. Viol.

" 7. Attentat à la pudeur avec violence; attentat à la pudeur même sans violence sur la personne d'une fille âgée de moins de 12 ans.

" 8. Vol, abandon, exposition ou séquestration illégale d'un enfant.

" 9. Enlèvement d'un mineur au-dessous de 14 ans, ou d'une fille au-dessous de 16 ans.

" 10. Séquestration ou détention illégale.

" 11. Bigamie.

" 12. Actes de violence ou sévices ayant causé des blessures graves.

" 13. Violences contre les magistrats et officiers publics dans l'exercice de leurs fonctions.

" 14. Menaces écrites ou verbales faites en vue d'extorquer de l'argent ou des valeurs.

" 15. Faux témoignage, subornation de témoins d'experts ou d'interprètes.

" 16. Incendie volontaire.

" 17. Vols avec violence, effraction, escalade ou au moyen de fausses clefs.

" 18. Abus de confiance ou détournement par un banquier, commissionnaire, administrateur, tuteur, curateur, liquidateur, syndic, officier ministériel, directeur, membre ou employé d'une société, ou par toute autre personne.

" 19. Escroquerie ou recel frauduleux d'argent, valeurs ou objets

including receiving any chattel, money, valuable security, or other property, knowing the same to have been unlawfully obtained.

"20. Embezzlement or larceny, including receiving any chattel, money, valuable security, or other property, knowing the same to have been embezzled or stolen.

"21. Crimes against Bankruptcy Law.

"22. Any malicious act done with intent to endanger persons in a railway train.

"23. Malicious injury to property, if the offence is indictable.

"24. Crimes committed at sea :—

"(a.) Any act of depredation or violence by the crew of a British or French vessel, against another British or French vessel, or by the crew of a foreign vessel not provided with a regular commission, against British or French vessels, their crews or their cargoes.

"(b.) The fact by any person being or not one of the crew of a vessel of giving her over to pirates.

"(c.) The fact by any person being or not one of the crew of a vessel of taking possession of such vessel by fraud or violence.

"(d.) Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

"(e.) Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.

"25. Dealing in slaves in such manner as to constitute an offence against the laws of both countries.

"The extradition is also to take place for participation, either as principals or accessories, in any of the aforesaid crimes, provided such participation be punishable by the laws of both the Contracting Parties.

"Article IV.

"The present Treaty shall apply to crimes and offences committed

mobiliers provenant d'une escroquerie. Publications faites de mauvaise foi, comptes rendus écrits ou imprimés mensongers faits dans le but de tromper les actionnaires d'une société, de provoquer des souscriptions ou de déterminer des tiers à prêter de l'argent à la société.

"20. Détournement frauduleux, vol ou recel frauduleux de tout objet, argent ou valeur, provenant de vol ou de détournement.

"21. Banqueroute frauduleuse.

"22. Toute acte commis avec intention de mettre en danger la vie de personnes se trouvant dans un train de chemin de fer.

"23. Destruction ou dégradation de toute propriété mobilière ou immobilière, punies des peines criminelles ou correctionnelles.

"24. Crimes commis en mer :—

"(a.) Tout acte de déprédation ou de violence commis par l'équipage d'un navire Britannique ou Français contre un autre navire Britannique ou Français, ou par l'équipage d'un navire étranger non pourvu de commission régulière, contre des navires Britanniques ou Français, leurs équipages ou leurs chargements.

"(b.) Le fait par tout individu, faisant ou non partie de l'équipage d'un bâtiment de mer, de le livrer aux pirates.

"(c.) Le fait par tout individu, faisant partie ou non de l'équipage d'un navire ou bâtiment de mer, de s'emparer du dit bâtiment par fraude ou violence.

"(d.) Destruction, submersion, échouement ou perte d'un navire, dans une intention coupable.

"(e.) Révolte par deux ou plusieurs personnes, à bord d'un navire en mer, contre l'autorité du capitaine ou du patron.

"25. Traite des esclaves, telle qu'elle est définie et punie par les lois des deux pays.

"Sont comprises dans les qualifications des actes donnant lieu à extradition, la complicité des faits ci-dessus mentionnés, lorsqu'elles sont punies par la législation des deux pays.

"Article IV.

"Le présent Traité s'applique aux crimes et délits antérieurs à sa

prior to the signature of the Treaty; but a person surrendered shall not be tried for any crime or offence committed in the other country before the extradition, other than the crime for which his surrender has been granted.

“ Article V.

“ No accused or convicted person shall be surrendered, if the offence in respect of which his surrender is demanded shall be deemed by the Party upon which it is made to be a political offence, or to be an act connected with (*connece à*) such an offence, or if he prove to the satisfaction of the police magistrate or of the Court before which he is brought on *habeas corpus*, or of the Secretary of State, that the requisition for his surrender has, in fact, been made with a view to try or to punish him for an offence of a political character.

“ Article VI.

“ On the part of the French Government, the extradition shall take place in the following manner in France:—

“ The Ambassador or other Diplomatic Agent of Her Britannic Majesty in France shall send to the Minister for Foreign Affairs, in support of each demand for extradition, an authenticated and duly legalized copy either of a certificate of conviction, or of a warrant of arrest against a person accused, clearly setting forth the nature of the crime or offence on account of which the fugitive is being proceeded against. The judicial document thus produced shall be accompanied by a description of the person claimed, and by any other information which may serve to identify him.

“ These documents shall be communicated by the Minister for Foreign Affairs to the Keeper of the Seals, Minister of Justice, who, after examining the claim for surrender, and the documents in support thereof, shall report thereon immediately to the President of the Republic; and, if there is reason for it, a Decree of the President will grant the extradition of the person claimed, and will order him to be arrested and delivered to the British authorities.

signature; mais la personne qui aura été livrée ne sera poursuivie pour aucun délit commis dans l'autre pays avant l'extradition, autre que celui pour lequel sa remise a été accordée.

“ Article V.

“ Aucune personne accusée ou condamnée ne sera livrée si le délit pour lequel l'extradition est demandée est considéré par la partie requise comme un délit politique ou un fait connexe à un semblable délit, ou si la personne prouve, à la satisfaction du magistrat de police ou de la cour devant laquelle elle est amenée par l'*habeas corpus*, ou du Secrétaire d'Etat, que la demande d'extradition a été faite en réalité dans le but de la poursuivre ou de la punir pour un délit d'un caractère politique.

“ Article VI.

“ De la part du Gouvernement Français, l'extradition aura lieu ainsi qu'il suit, en France:—

“ L'Ambassadeur ou autre Agent Diplomatique de Sa Majesté Britannique en France enverra au Ministre des Affaires Etrangères, à l'appui de chaque demande d'extradition, l'expédition authentique et dûment légalisée, soit d'un certificat de condamnation, soit d'un mandat d'arrêt contre une personne inculpée ou accusée, faisant clairement connaître la nature du crime ou du délit à raison duquel le fugitif est poursuivi. Le document judiciaire ainsi produit sera accompagné du signalement et des autres renseignements pouvant servir à constater l'identité de l'individu réclamé.

“ Ces documents seront communiqués par le Ministre des Affaires Etrangères au Garde des Sceaux, Ministre de la Justice, qui, après examen de la demande et des pièces à l'appui, en fera un rapport au Président de la République; et s'il y a lieu, un Décret Présidentiel accordera l'extradition de l'individu réclamé et ordonnera qu'il soit arrêté et livré aux Autorités Britanniques.

"In consequence of this Decree, the Minister of the Interior shall give orders that search be made for the fugitive criminal, and in case of his arrest, that he be conducted to the French frontier, to be delivered to the person authorized by Her Britannic Majesty's Government to receive him.

"Should it so happen that the documents furnished by the British Government, with the view of establishing the identity of the fugitive criminal, and that the particulars collected by the agents of the French Police with the same view, be considered insufficient, notice shall be immediately given to the Ambassador or other Diplomatic Agent of Her Britannic Majesty in France, and the fugitive person, if he has been arrested, shall remain in custody until the British Government has been able to furnish further evidence in order to establish his identity or to throw light on other difficulties in the examination.

"Article VII."

"In the dominions of Her Britannic Majesty, other than the Colonies or Foreign Possessions of Her Majesty, the manner of proceeding shall be as follows :—

"(A) In the case of a person accused—The requisition for the surrender shall be made to Her Britannic Majesty's Principal Secretary of State for Foreign Affairs by the Ambassador or other Diplomatic Agent of the President of the French Republic, accompanied by a warrant of arrest or other equivalent judicial document, issued by a Judge or Magistrate duly authorized to take cognizance of the acts charged against the accused in France, together with duly authenticated depositions or statements taken on oath before such Judge or Magistrate, clearly setting forth the said acts, and containing a description of the person claimed, and any particulars which may serve to identify him. The said Secretary of State shall transmit such documents to Her Britannic Majesty's Principal Secretary of State for the Home Department, who shall then, by order under his hand and seal, signify to some Police Magistrate in London that such requisition has been made, and require him, if

"En conséquence de ce Décret, le Ministre de l'Intérieur donnera des ordres pour que l'individu poursuivi soit recherché et, en cas d'arrestation, conduit jusqu'à la frontière de France pour être livré à la personne chargée de le recevoir de la part du Gouvernement de Sa Majesté Britannique.

"S'il arrivait que les documents produits par le Gouvernement Britannique pour constater l'identité, et les renseignements recueillis par les Agents de la Police Française pour le même objet, fussent reconnus insuffisants, avis en serait donné immédiatement à l'Ambassadeur ou autre Agent Diplomatique de Sa Majesté Britannique en France, et l'individu poursuivi, s'il a été arrêté, continuerait à être détenu en attendant que le Gouvernement Britannique ait pu produire de nouveaux éléments de preuve pour constater l'identité ou éclaircir d'autres difficultés d'examen.

"Article VII."

"Dans les Etats de Sa Majesté Britannique autres que les Colonies ou possessions étrangères il sera procédé ainsi qu'il suit :—

"(A) S'il s'agit d'une personne accusée.—La demande sera adressée au Premier Secrétaire d'Etat de Sa Majesté Britannique pour les Affaires Etrangères, par l'Ambassadeur ou autre Agent Diplomatique du Président de la République Française. A cette demande seront joints un mandat d'arrêt ou autre document judiciaire équivalent, délivré par un Juge ou Magistrat dûment autorisé à prendre connaissance des actes imputés à l'inculpé en France, ainsi que les dépositions authentiques ou les déclarations faites sous serment devant ce Juge ou Magistrat, énonçant clairement les dits actes et contenant outre le signalement de la personne réclamée, toutes les particularités qui pourraient servir à établir son identité. Le dit Secrétaire d'Etat transmettra ces documents au Premier Secrétaire d'Etat de Sa Majesté Britannique pour le Département des Affaires Intérieures, qui, par un ordre de sa main ou muni de son sceau, signifiera à un Magistrat de Police de Londres que la demande

* This Article was amended by Convention of Feb. 13, 1896. printed at p. 97 below, as shown by footnotes on p. 92.

there be due cause, to issue his warrant for the apprehension of the fugitive.

"On the receipt of such order from the Secretary of State, and on the production of such evidence as would, in the opinion of the Magistrate, justify the issue of the warrant if the crime had been committed in the United Kingdom, he shall issue his warrant accordingly.

"When the fugitive shall have been apprehended, he shall be brought before the *Police Magistrate who issued the warrant, or some other Police Magistrate in London*.* If the evidence to be then produced shall be such as to justify, according to the law of England, the committal for trial of the prisoner, if the crime of which he is accused had been committed in England, the Police † Magistrate shall commit him to prison to await the warrant of the Secretary of State for his surrender; sending immediately to the Secretary of State a certificate of the committal and a report upon the case.

"After the expiration of a period from the committal of the prisoner which shall never be less than fifteen days, the Secretary of State shall, by order under his hand and seal, order the fugitive criminal to be surrendered to such person as may be duly authorized to receive him on the part of President of the French Republic.

(B) In the case of a person convicted.—The course of proceeding shall be the same as in the case of a person accused, except that the warrant to be transmitted by the Ambassador or other Diplomatic Agent in support of his requisition shall clearly set forth the crime of which the person claimed has been convicted, and state the fact, place, and date of his conviction. The evidence to be produced before the *Police † Magistrate* shall be such as would, according to the law of England, prove that the prisoner was convicted of the crime charged.

"(C) Persons convicted by judgment in default or *arrêt de contumace*, shall be in the matter of extradition considered as persons accused, and, as such, be surrendered.

d'extradition a été faite, et le requerra, s'il y a lieu, de délivrer un mandat pour l'arrestation du fugitif.

"A la réception de cet ordre et sur la production de telle preuve qui, dans son opinion, justifierait l'émission du mandat, si le fait avait été commis dans le Royaume Uni, le Magistrat délivrera le mandat requis.

"Lorsque le fugitif aura été arrêté, on l'amènera devant le *Magistrat de Police de qui sera émis le mandat, ou devant un autre Magistrat de Police de Londres*.* Si la preuve produite est de nature à justifier, selon la loi Anglaise, la mise en jugement du prisonnier dans le cas ou le fait dont il est accusé aurait été commis en Angleterre, le Magistrat de Police l'enverra en prison pour attendre le mandat du Secrétaire d'Etat nécessaire à l'extradition, et il adressera immédiatement à ce dernier une attestation de l'emprisonnement avec un rapport sur l'affaire.

"Après l'expiration d'un certain temps qui ne pourra jamais être moindre de quinze jours depuis l'emprisonnement de l'accusé, le Secrétaire d'Etat, par un ordre de sa main et muni de son sceau, ordonnera que le fugitif soit livré à telle personne qui sera dûment autorisée, à le recevoir au nom du Président de la République Française.

(B) S'il s'agit d'une personne condamnée :—La marche de la procédure sera la même que dans le cas d'une personne accusée, sauf que le mandat à transmettre par l'Ambassadeur ou autre Agent Diplomatique Français, à l'appui de la demande d'extradition, énoncera clairement le fait pour lequel la personne réclamée aura été condamnée et mentionnera le lieu et la date du jugement. La preuve à produire devant le *Magistrat de Police †* sera telle d'après que, la loi Anglaise, elle établirait que le prisonnier a été condamné pour l'infraction dont on l'accuse.

"(C) Les condamnés par jugement par défaut ou *arrêt de contumace* sont, au point de vue de la demande d'extradition, réputés accusés, et livrés comme tels.

* The words "a magistrate" and "un magistrat" were substituted by the Convention of February 12, 1894, printed at p. 97 below, respectively for the words printed in *italics*, but the amending Convention quoted the superseded words of the French version of Art. VII. with a variation. See Art. I., printed at p. 68 below.

† The words "Police" and "Police" were directed to be omitted by the Convention of February 12, 1894, printed at p. 97 below.

“(D) After the *Police** Magistrate shall have committed the accused or convicted person to prison to await the order of a Secretary of State for his surrender, such person shall have the right to apply for a writ of *habeas corpus*; if he should so apply, his surrender must be deferred until after the decision of the Court upon the return to the writ, and even then can only take place if the decision is adverse to the applicant. In the latter case the Court may at once order his delivery to the person authorized to receive him, without the order of a Secretary of State for his surrender, or commit him to prison to await such order.

“ Article VIII.

“ Warrants, depositions, or statements on oath, issued or taken in the dominions of either of the two High Contracting Parties, and copies thereof, and certificates of or judicial documents stating the facts of conviction, shall be received in evidence in proceedings in the dominions of the other if purporting to be signed or certified by a Judge, Magistrate, or officer of the country where they were issued or taken provided such warrants, depositions, statements, copies, certificates, and judicial documents are authenticated by the oath of some witness, or by being sealed with the official seal of the Minister of Justice or some other Minister of State.

“ Article IX. †

“ A fugitive criminal may be apprehended under a warrant issued by any Police Magistrate, Justice of the Peace, or other competent authority in either country, on such information or complaint, and such evidence, or after such proceedings as would, in the opinion of the person issuing the warrant justify the issue of a warrant, if the crime had been committed or the prisoner convicted in that part of the dominions of the two Contracting Parties in which the Magistrate exercises jurisdiction: provided, however, that, in the United Kingdom, the accused shall, in such case, be sent as speedily as possible

“(D) Après que le Magistrat de *Police** aura envoyé en prison la personne accusée ou condamnée pour attendre l'ordre d'extradition du Secrétaire d'Etat, cette personne aura le droit de réclamer une ordonnance d'*habeas corpus*; l'extradition devra alors être différée jusqu'après la décision de la Cour sur le renvoi de l'ordonnance, et elle ne pourra avoir lieu que si la décision est contraire au demandeur. Dans ce dernier cas, la Cour pourra immédiatement ordonner la remise de celui-ci à la personne autorisée à le recevoir, sans qu'il soit besoin d'attendre l'ordre d'extradition du Secrétaire d'Etat ou bien l'envoyer en prison pour attendre cet ordre.

“ Article VIII.

“ Les mandats, les dépositions, les déclarations sous serment, délivrés ou recueillis dans les Etats de l'une des Hautes Parties Contractantes, les copies de ces pièces, ainsi que les certificats ou les documents judiciaires établissant le fait de la condamnation, seront reçus comme preuves dans la procédure des Etats de l'autre partie, s'ils sont revêtus de la signature ou accompagnés de l'attestation d'un juge, d'un magistrat ou d'un fonctionnaire du pays où ils ont été délivrés ou recueillis, pourvu que ces mandats, dépositions, déclarations, copies, certificats et documents judiciaires soient rendus authentiques par le serment d'un témoin ou par le sceau officiel du Ministre de la Justice ou d'un autre Ministre d'Etat.

“ Article IX. †

“ Le fugitif pourra être arrêté sur mandat délivré par tout Magistrat de police, juge de paix ou autre autorité compétente dans chaque pays, à la suite d'un avis, d'une plainte, d'une preuve ou de tout autre acte de procédure qui, dans l'opinion de celui qui aura délivré le mandat, justifierait ce mandat, si le crime avait été commis ou la personne condamnée dans la partie des Etats des deux Contractants, où ce Magistrat exerce sa juridiction; pourvu cependant, s'il s'agit du Royaume Uni, que l'accusé soit, dans un pareil cas, envoyé aussi promptement qu'il sera possible devant un Magistrat de police

* The words “Police” and “Police” were directed to be omitted by the Convention of February 13, 1896, printed at p. 97 below.

† Amended by Convention of Feb. 13, 1896, printed below.

before a *Police Magistrate in London*.* He shall be discharged, as well in the United Kingdom as in France, if within fourteen days a requisition shall not have been made for his surrender by the Diplomatic Agent of his country in the manner directed by Articles II. and IV. of this Treaty.

"The same rule shall apply to the cases of persons accused or convicted of any of the crimes specified in this Treaty committed on the high seas on board any vessel of either country which may come into a port of the other.

" Article X.

"If the fugitive criminal who has been committed to prison, be not surrendered and conveyed away within two months after such commitment, or within two months after the decision of the Court upon the return to a writ of *habeas corpus* in the United Kingdom, he shall be discharged from custody, unless sufficient cause be shown to the contrary.

" Article XI.

"The claim for extradition shall not be complied with if the individual claimed has been already tried for the same offence in the country whence the extradition is demanded, or if, since the commission of the acts charged, the accusation or the conviction, exemption from prosecution, or punishment has been acquired by lapse of time, according to the laws of that country.

" Article XII.

"If the individual claimed by one of the two High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers, on account of other crimes committed upon their respective territories, his surrender shall be granted to that State whose demand is earliest in date; unless any other arrangement should be made between the Governments which have claimed him, either on account of the gravity of the crimes committed, or for any other reasons.

" Article XIII.

"If the individual claimed should be under prosecution, or condemned

de Londres.* Il sera relâché, tant dans le Royaume Uni qu'en France, si, dans les quatorze jours, une demande d'extradition n'a pas été faite par l'Agent Diplomatique de son pays, suivant le mode indiqué par les Articles II et IV de ce Traité.

"La même règle s'appliquera aux cas de personnes accusées ou condamnées du chef de l'un des faits spécifiés dans ce Traité et commis en pleine mer, à bord d'un navire de l'un des deux pays et qui viendrait dans un port de l'autre.

" Article X.

"Si le fugitif qui a été arrêté n'a pas été livré et emmené dans les deux mois après son arrestation ou dans les deux mois après la décision de la Cour sur le renvoi d'une ordonnance d'*habeas corpus* dans le Royaume Uni, il sera mis en liberté, à moins qu'il n'y ait d'autre motif de le retenir en prison.

" Article XI.

"Il ne sera pas donné suite à la demande d'extradition, si l'individu réclamé a été jugé pour le même fait dans le pays requis, ou si, depuis les faits imputés, les poursuites ou la condamnation, la prescription de l'action ou de la peine est acquise d'après les lois de ce même pays.

" Article XII.

"Si l'individu réclamé par l'une des Hautes Parties Contractantes, en exécution du présent Traité, est aussi réclamé par une ou plusieurs autres Puissances, du chef d'autres infractions commises sur leurs territoires respectifs, son extradition sera accordée à l'Etat dont la demande est la plus ancienne en date: à moins qu'il n'existe entre les Gouvernements qui l'ont réclamé, un arrangement qui déciderait de la préférence, soit à raison de la gravité des crimes commis, soit pour tout autre motif.

" Article XIII.

"Si l'individu réclamé est poursuivi ou condamné pour un crime

* The words "a magistrate" and "un magistrat" were by Convention of February 12, 1866, printed at p. 97 below, respectively substituted for the words printed in italics.

† As regards Extradition with Tunis, two months; see Arrangement of December 31, 1866, printed below under "Tunis."

for a crime or offence committed in the country where he may have taken refuge, his surrender may be deferred until he shall have been set at liberty in due course of law.

"In case he should be proceeded against or detained in such country on account of obligations contracted towards private individuals, his surrender shall nevertheless take place.

" Article XIV.

"Every article found in the possession of the individual claimed at the time of his arrest, shall, if the competent authority so decide, be seized, in order to be delivered up with his person at the time when the surrender shall be made. Such delivery shall not be limited to the property or articles obtained by stealing or by fraudulent bankruptcy, but shall extend to everything that may serve as proof of the crime, and shall take place even when the surrender, after having been ordered, shall be prevented from taking place by reason of the escape or death of the individual claimed.

"The rights of third parties with regard to the said property or articles are nevertheless reserved.

" Article XV.

"Each of the High Contracting Parties shall defray the expenses occasioned by the arrest within its territories, the detention, and the conveyance to its frontier, of the persons whom it may have consented to surrender in pursuance of the present Treaty.

" Article XVI.

"In the Colonies and foreign Possessions of the two High Contracting Parties the manner of proceeding shall be as follows:—

"The requisition for the surrender of a fugitive criminal who has taken refuge in a Colony or foreign Possession of either Party, shall be made to the Governor or chief authority of such Colony or Possession by the chief Consular Officer of the other in such Colony or Possession; or, if the fugitive has escaped from a Colony or foreign Possession of the Party on whose behalf the requisition is made, by the Governor or chief

ou un délit commis dans le pays où il s'est réfugié, son extradition pourra être différée jusqu'à ce qu'il ait été mis en liberté conformément à la loi.

"Dans le cas où il serait poursuivi ou détenue dans le même pays, à raison d'obligations par lui contractées envers des particuliers, son extradition n'en aura pas moins lieu.

" Article XIV.

"Tout objet trouvé en la possession de l'individu réclamé au moment de son arrestation sera, si l'autorité compétente en a ainsi ordonné, saisi pour être livré avec sa personne lorsque l'extradition aura lieu. Cette remise ne sera pas limitée aux objets acquis par vol ou banqueroute frauduleuse; elle s'étendra à toute chose qui pourrait servir de pièce de conviction et s'effectuera même si l'extradition, après avoir été accordée, ne peut s'accomplir par suite de l'évasion ou de la mort de l'individu réclamé.

"Sont toutefois réservés les droits des tiers sur les objets sus-mentionnés."

" Article XV.

"Chacune des Hautes Parties Contractantes supportera les frais occasionnés par l'arrestation sur son territoire, la détention et le transport à la frontière des personnes qu'elle aura consenti à extraditer, en exécution du présent Traité.

" Article XVI.

"Dans les Colonies et autres Possessions étrangères des deux Hautes Parties Contractantes, il sera procédé de la manière suivante:—

"La demande d'extradition du malfaiteur qui s'est réfugié dans une Colonie ou Possession étrangère de l'une des Parties, sera faite au Gouverneur ou fonctionnaire principal de cette Colonie ou Possession par le principal Agent Consulaire de l'autre dans cette Colonie ou Possession; ou si le fugitif s'est échappé d'une Colonie ou Possession étrangère de la Partie au nom de laquelle l'extradition est demandée, par le Gouverneur ou le fonction-

authority of such colony or Possession.

"Such requisitions may be disposed of, subject always, as nearly as may be, to the provisions of this Treaty, by the respective Governors or chief authorities, who, however, shall be at liberty either to grant the surrender or to refer the matter to their Government.

"The foregoing stipulations shall not in any way affect the arrangements established in the East Indian Possessions of the two countries by the IXth Article* of the Treaty of the 7th March, 1815.—

"Article XVII.

"The present Treaty shall be ratified and the ratifications shall be exchanged at Paris as soon as possible.

"It shall come into operation ten days after its publication, in conformity with the laws of the respective countries.

"Either Party may at any time terminate the Treaty on giving to the other six months' notice of its intention.

"In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

"Done at Paris, this fourteenth day of August, one thousand eight hundred and seventy-six.

naire principal de cette Colonie ou Possession.

"Ces demandes seront faites ou accueillies, en suivant toujours aussi exactement que possible les stipulations de ce Traité par les Gouverneurs ou premiers fonctionnaires, qui, cependant, auront la faculté de d'accorder l'extradition ou d'en référer à leur Gouvernement.

"Les stipulations qui précèdent ne modifient en rien les arrangements établis dans les possessions des Indes Orientales des deux États par l'Article IX* du Traité du 7 Mars, 1815.

"Article XVII.

"Le présent Traité sera ratifié, et les ratifications seront échangées, à Paris, aussitôt que faire se pourra.

"Il entrera en vigueur dix jours après sa publication dans les formes prescrites par la législation des pays respectifs.

"Chacune des Parties Contractantes pourra, en tout temps, mettre fin au Traité, en donnant à l'autre, six mois à l'avance, avis de son intention.

"En foi de quoi, les Plénipotentiaires respectifs ont signé ce même Traité et y ont apposé le sceau de leurs armes.

"Fait à Paris le 14 Août, 1876.

"(L.S.) *Lyon.*

"(L.S.) *Decazes.*"

* This Article is as follows:—

IX. All Europeans and others whatsoever, against whom judicial proceedings shall be instituted within the limits of the said settlements or factories* of His Most Christian Majesty, for offences committed, or debts contracted within the said limits, and who shall take refuge out of the same, shall be delivered up to the chiefs of the said settlements and factories; and all Europeans and others whatsoever, against whom judicial proceedings as aforesaid shall be instituted, without the said limits, and who shall take refuge within the same, shall be delivered up by the chiefs of the said settlements and factories, upon demand being made of them by the British Government.

IX. Tous les Européens, ou autres quelconques, contre qui il sera procédé en justice dans les limites des dits établissements ou factoreries* appartenant à sa Majesté très Chrétienne, pour des offenses commises, ou des dettes contractées dans les dites limites, et qui prendront refuge hors de ces mêmes limites, seront délivrés aux chefs des dits établissements et factoreries; et tous les Européens ou autres quelconques contre qui il sera procédé en justice, hors des dites limites, et qui se réfugieront dans ces mêmes limites, seront délivrés par les chefs des dits établissements et factoreries sur la demande qui en sera faite par le Gouvernement Anglais.

* i.e. French settlements in India

And whereas the ratifications of the said Treaty were exchanged at Paris on the eighth day of April last :

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and in virtue of the authority committed to Her by the said recited Acts, doth order, and it is hereby ordered, that from and after the thirty-first day of May, one thousand eight hundred and seventy-eight, the said Acts shall apply in the case of the said Treaty with the President of the French Republic.

C. L. Peel.

1896. No. 54.

At the Court at Windsor, the 22nd day of February, 1896.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.

Lord Arthur Hill.

Secretary Sir Matthew White Ridley, Bart.

Whereas by the Extradition Acts 1870 to 1895 * it was
* * * [*Here follows the first recital to the Order relating to Belgium, printed at p. 20 above, with the substitution of "Her Majesty" for "His Majesty."*]

And whereas a Convention was concluded on the 13th day of February, 1896, between Her Majesty and the President of the French Republic, amending Articles 7 and 9 of the Extradition Treaty of the 14th August, 1876, for the mutual extradition of fugitive criminals, which Convention is in the terms following :—

<p>" Her Majesty, the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and the President of the French Republic, being desirous to render</p>	<p>" Sa Majesté la Reine du Royaume-Uni de Grande Bretagne et d'Irlande, Impératrice des Indes, et le Président de la République Française, désireux de rendre plus</p>
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* 33 & 34 Vict. c. 53; 36 & 37 Vict. c. 60; 53 & 54 Vict. c. 33.

more efficacious the provisions of Articles VII. and IX. of the Treaty between Great Britain and France of the 14th August, 1876, for the mutual extradition of fugitive criminals, have named as their respective plenipotentiaries for this purpose, that is to say :

" Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, his Excellency the Marquis of Dufferin and Ava, Her Ambassador Extraordinary and Plenipotentiary to the French Republic, &c.

" And the President of the French Republic, his Excellency M. Marcellin Berthelot, Senator, Minister of Foreign Affairs of the French Republic, &c.

" Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following Articles :—

" ARTICLE I.

" The text of Article VII. of the Extradition Treaty of the 14th August, 1876, is amended by the substitution of the words 'a magistrate' for the words 'the police magistrate who issued the warrant, or some other police magistrate in London,' in the first sentence of the third paragraph of section (A), and by the omission of the word 'police' in the second sentence of the said paragraph, and in the sections (B) and (D).

" ARTICLE II.

" The text of Article IX. of the aforesaid Treaty is amended by the substitution of the words 'a magistrate' for the words 'a police magistrate in London.'

" ARTICLE III.

" The present Convention shall be ratified, and the ratifications shall be exchanged at Paris as soon as possible.

" It shall come into force ten days after its publication in the manner prescribed by law in the respective countries, and shall have the same force and duration as the Treaty to which it relates.

" In witness whereof the respective plenipotentiaries have signed

efficaces les dispositions des Articles VII. et IX. du Traité conclu le 14 Août, 1876, entre la Grande-Bretagne et la France pour l'extradition réciproque des criminels fugitifs, ont nommé respectivement comme plénipotentiaires à cet effet, savoir :

" Sa Majesté la Reine du Royaume-Uni de Grande-Bretagne et d'Irlande, Impératrice des Indes, son Excellence M. le Marquis de Dufferin et Ava, son Ambassadeur Extraordinaire et Plénipotentiaire près le Gouvernement de la République Française, &c.

" Et le Président de la République Française, son Excellence M. Marcellin Berthelot, Sénateur, Ministre des Affaires Étrangères de la République Française, &c.

" Lesquels, après s'être respectivement communiqué leurs pleins pouvoirs, reconnus en bonne et due forme, sont tombés d'accord sur les Articles suivants :—

" ARTICLE I.

" Le texte de l'Article VII. du Traité du 14 Août, 1876, est modifié par la substitution des mots 'un magistrat' aux mots 'le magistrat de police qui a décerné le mandat d'arrêt ou tout autre magistrat de police à Londres,' dans la première partie du paragraphe 3 de la section (A), et par la suppression du mot 'police' dans la seconde partie du dit paragraphe et dans les sections (B) et (D).

ARTICLE II.

" Le texte de l'Article IX. du même Traité est modifié par la substitution des mots 'un magistrat' aux mots 'un magistrat de Police à Londres.'

" ARTICLE III.

" La présente Convention sera ratifiée et les ratifications seront échangées à Paris aussitôt que possible.

" Elle entrera en vigueur dix jours après sa promulgation dans la forme prévue par la législation des pays respectifs, et aura la même force et la même durée que le Traité auquel elle se rapporte.

" En foi de quoi les Plénipotentiaires respectifs ont signé la

the present Convention, and have affixed thereto their seals. présente Convention, et y ont apposé leurs cachets.

“Done in duplicate at Paris, the 13th February, 1896. “Fait à Paris, en double exemplaire, le 13 Février, 1896.

“(L.S.) *Dufferin and Ava.*
“(L.S.) *M. Berthelot.*”

And whereas the ratifications of the said Convention were exchanged at Paris on the 19th day of February, 1896 :

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and in virtue of the authority committed to Her by the said recited Acts, doth order, and it is hereby ordered, that from and after the sixth day of March, 1896, the said Acts shall apply in the case of France, and of the said Convention with the President of the French Republic, and of the said Extradition Treaty as modified by the said Convention.

Provided always that the operation of the said Acts shall be and remain suspended within the Dominion of Canada so long as an Act of the Parliament of Canada passed in 1886,* and entitled “An Act respecting the Extradition of Fugitive Criminals,” shall continue in force there, and no longer.

C. L. Peel.

* “The Extradition Act” (Revised Statutes of Canada, c. 142).

(h) Germany.

At the Court at Windsor, the 25th day of June, 1872.

PRESENT :

The Queen's Most Excellent Majesty in Council.

Whereas * * * [*Here follows the first recital to the Order of March 17, 1874, relating to Austria-Hungary, printed at p. 11 above.*]

And whereas a Treaty was concluded on the 14th day of May last between Her Majesty and the Emperor of Germany, for the Mutual Extradition of Fugitive Criminals, which Treaty is in the terms following:—

“Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Majesty the Emperor of Germany, having judged it expedient, with a view to the better administration of justice and to the prevention of crime within the two countries and their jurisdictions, that persons charged with or convicted of the crimes hereinafter enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up; their said Majesties have named as their Plenipotentiaries to conclude a Treaty for this purpose, that is to say:

“Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honourable Granville George Earl Granville, Lord Leveson, a Peer of the United Kingdom, Knight of the Most Noble Order of the Garter, a Member of Her Majesty's Privy Council, Lord Warden of the Cinque Ports and Constable of Dover Castle, Chancellor of the University of London, Her Majesty's Principal Secretary of State for Foreign Affairs;

“And His Majesty the Emperor of Germany, His Minister of State and Chamberlain, Albert Count of Bernstorff-Stintenburg, Knight of the exalted Order of the Black Eagle, Grand Cross of the Order of the Red Eagle with oak leaves, Grand Commander of the Order of

“Nachdem Ihre Majestät die Königin des Vereinigten Königreichs von Grossbritannien und Irland, und Seine Majestät der Deutsche Kaiser, behufs besserer Verwaltung der Rechtspflege und zur Verhütung von Verbrechen innerhalb der beiden Reiche und deren Gerichtsbarkeiten es für zweckmässig befunden haben, dass Personen, welche der in diesem Verträge aufgeführten strafbaren Handlungen beschuldigt oder wegen solcher verurtheilt und vor der Justiz flüchtig geworden sind, unter bestimmten Umständen gegenseitig ausgeliefert werden sollen; so haben Ihre eben gedachten Majestäten behufs Abschliessung eines desfallsigen Vertrags zu Ihren Bevollmächtigten ernannt:

“Ihre Majestät die Königin des Vereinigten Königreichs von Grossbritannien und Irland den sehr ehrenwerthen Granville George Grafen Granville, Lord Leveson, Pair des Vereinigten Königreichs, Ritter des Höchstedlen Ordens vom Rosenband, Mitglied Ihrer Majestät Höchstehrerwerthen Geheimenrathes, Lord Warden der fünf Häfen, Schlosshauptmann von Dover, Kanzler der Universität London, Allerhöchstihren Haupt-Staatssekretair für die Auswärtigen Angelegenheiten;

“Und Seine Majestät der Deutsche Kaiser Allerhöchstseinen Staats-Minister und Kämmerer, Albrecht Grafen von Bernstorff-Stintenburg, Ritter des hohen Ordens vom Schwarzen Adler, Grosskreuz des Rothen Adler-Ordens mit Eichenlaub, Gross-

* This Treaty was by Treaty of May 5, 1894, printed at p. 106 below, extended to certain German Protectorates in Africa, New Guinea, and the Pacific Ocean.

the Imperial and Royal House of Hohenzollern in diamonds, and Knight of the Order of the Crown with the Red Cross; Grand Cross of the Order of Civil Merit of the Crown of Bavaria, and of the Order of the Ernestine branch of the House of Saxony, Knight of the Order of the Golden Lion of the House of Nassau, &c., &c., &c., Ambassador Extraordinary and Plenipotentiary of His Imperial and Royal Majesty to Her Britannic Majesty;

“Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles:—

“Article I.

“The High Contracting Parties engage to deliver up to each other those persons who, being accused or convicted of a crime committed in the territory of the one Party, shall be found within the territory of the other Party, under the circumstances and conditions stated in the present Treaty.

“Article II.

“The crimes for which the extradition is to be granted are the following:—

“(1.) Murder, or attempt to murder.

“(2.) Manslaughter.

“(3.) Counterfeiting or altering money, uttering or bringing into circulation counterfeit or altered money.

“(4.) Forgery or counterfeiting, or altering or uttering what is forged or counterfeited or altered; comprehending the crimes designated in the German Penal Code as counterfeiting or falsification of paper-money, bank notes, or other securities, forgery or falsification of other public or private documents, likewise the uttering or bringing into circulation, or wilfully using such counterfeited, forged, or falsified papers.

“(5.) Embezzlement or larceny.

Komthur des Kaiserlichen und Königlichen Haus - Ordens von Hohenzollern in Brillanten, Ritter des Kronen-Ordens dritter Klasse mit dem rothen Kreuz; Grosskreuz des Ordens der Bayerischen Krone und des Sachsen-Ernestinischen Haus-Ordens, Ritter des Ordens vom Goldenen Löwen des Hauses Nassau, &c., &c., &c., ausserordentlichen und bevollmächtigten Botschafter Seiner Kaiserlichen und Königlichen Majestät bei Ihrer Grossbritannischen Majestät;

“Welche, nachdem sie sich gegenseitig ihre Vollmachten mitgetheilt und dieselben in guter und gehöriger Form befunden, die folgenden Artikel vereinbart und abgeschlossen haben:—

“Artikel I.

“Die hohen vertragenden Theile verpflichten sich einander diejenigen Personen auszuliefern, welche wegen einer, auf dem Gebiete des einen Theils begangenen strafbaren Handlung beschuldigt oder verurtheilt sind und in dem Gebiete des anderen Theiles aufgefunden werden, sofern die in dem gegenwärtigen Verträge angegebenen Fälle und Voraussetzungen vorhanden sind.

“Artikel II.

“Die strafbaren Handlungen, wegen deren die Auslieferung zu gewähren ist, sind folgende:—

“(1.) Mord, Mordversuch.

“(2.) Todtschlag.

“(3.) Nachmachen oder Verfälschen von Metallgeld, Verausgabung oder In-Verkehr-Bringen nachgemachten oder verfälschten Metallgeldes.

“(4.) Nachmachen oder Verfälschen von Papiergeld, Banknoten oder anderen Werthpapieren, Fälschung oder Verfälschung anderer öffentlicher oder Privat-Urkunden, imgleichen Verausgabung oder In Verkehr-Bringen oder wissentliches Gebrauchen solcher nachgemachten oder gefälschten Papiere.

“(5.) Diebstahl und Unterschlagung.

" (6.) Obtaining money or goods by false pretences.

" (7.) Crimes by bankrupts against bankruptcy law; comprehending the crimes designated in the German Penal Code as bankruptly liable to prosecution.

" (8.) Fraud by a bailee, banker, agent, factor, trustee, or director, or member or public officer of any company, made criminal by any law for the time being in force.

" (9.) Rape.

" (10.) Abduction.

" (11.) Child stealing.

" (12.) Burglary or house-breaking.

" (13.) Arson.

" (14.) Robbery with violence.

" (15.) Threats by letter, or otherwise, with intent to extort.

" (16.) Sinking or destroying a vessel at sea, or attempting to do so.

" (17.) Assaults on board a ship on the high seas, with intent to destroy life, or to do grievous bodily harm.

" (18.) Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas, against the authority of the master.

" The extradition is also to take place for participation in any of the aforesaid crimes, provided such participation be punishable by the laws of both the Contracting Parties.

" Article III.

" No German shall be delivered up by any of the Governments of the Empire to the Government of the United Kingdom; and no subject of the United Kingdom shall be delivered up by the Government thereof to any German Government.

" (6.) Erlangung von Geld oder anderen Sachen durch falsche Vorspiegelungen.

" (7.) Strafbare Bankerruth, unter welchen Begriff alle diejenigen strafbaren Handlungen fallen, die nach den bezüglich den Bestimmungen des deutschen Strafgesetzbuchs gerichtlich geahndet werden.

" (8.) Untreue Seitens eines Verwalters, und Beauftragten, Banquiers, Agenten, Prokuristen, Vormundes oder Kurators, Vorstandes, Mitgliedes oder Beamten irgend einer Gesellschaft, soweit dieselbe nach den bestehenden Gesetzen mit Strafe bedroht ist.

" (9.) Nothzucht.

" (10.) Entführung.

" (11.) Kinderraub.

" (12.) Einbrechen und Eindringen in ein Wohnhaus oder das gehörige Nebengebäude mit der Absicht, ein Verbrechen zu begehen, zur Tages-(housebreaking) oder Nachtzeit (burglary).

" (13.) Vorsätzliche Brandstiftung.

" (14.) Raub mit Gewaltthatigkeiten.

" (15.) Erpressung.

" (16.) Vorsätzliche Versenkung oder Zerstörung eines Schiffes zur See, oder Versuch dieses Verbrechens.

" (17.) Angriffe auf Personen an Bord eines Schiffes auf hoher See in der Absicht zu tödten oder eine schwere Körperverletzung zu verüben.

" (18.) Widerstand mit Thätlichkeiten (revolt) gegen den Schiffsführer an Bord eines Schiffes auf hoher See, wenn dieser von zwei oder mehreren Personen verübt wird, oder Verschwörung zu einem solchen Widerstande.

" Die Auslieferung findet auch wegen Theilnahme an einer der vorbezeichneten strafbaren Handlungen statt, sofern diese nach der Gesetzgebung beider vertragenden Theile mit Strafe bedroht ist.

" Artikel III.

" Kein Deutscher wird von Seiten der Regierungen des Deutschen Reichs an die Regierung des Vereinigten Königreichs und von Seiten dieser kein englischer Unterthan an eine Regierung des Deutschen Reichs ausgeliefert werden.

" Article IV.

" The extradition shall not take place if the person claimed on the part of the Government of the United Kingdom, or the person claimed on the part of any of the Governments of the German Empire, has already been tried and discharged or punished, or is still under trial, in one of the States of the German Empire, or in the United Kingdom, respectively, for the crime for which his extradition is demanded.

" If the person claimed on the part of the Government of the United Kingdom, or if the person claimed on the part of any of the Governments of the German Empire, should be under examination for any other crime in one of the States of the German Empire, or in the United Kingdom, respectively, his extradition shall be deferred until the conclusion of the trial, and the full execution of any punishment awarded to him.

" Article V.

" The extradition shall not take place if, subsequently to the commission of the crime, or the institution of the penal prosecution, or the conviction thereon, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the State applied to.

" Article VI.

" A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character.

" Article VII.

" A person surrendered can in no case be kept in prison, or be brought to trial in the State to

" Artikel IV.

" Die Auslieferung soll nicht stattfinden, wenn die von einer Regierung des Deutschen Reichs verfolgte Person im Vereinigten Königreich, oder die Seitens der Regierung des Vereinigten Königreichs verfolgte Person in einem der Staaten des Deutschen Reichs wegen derselben strafbaren Handlung, wegen deren die Auslieferung beantragt wird, in Untersuchung gewesen und ausser Verfolgung gesetzt worden, oder sich noch in Untersuchung befindet, oder bereits bestraft worden ist.

" Wenn die von einer Regierung des Deutschen Reichs verfolgte Person im Vereinigten Königreich, oder wenn die Seitens der Regierung des Vereinigten Königreichs verfolgte Person in einem der Staaten des Deutschen Reichs wegen einer anderen strafbaren Handlung in Untersuchung ist, so soll ihre Auslieferung bis zur Beendigung dieser Untersuchung und vollendeter Vollstreckung der etwa gegen sie erkannten Strafe aufgeschoben werden.

" Artikel V.

" Die Auslieferung soll nicht stattfinden, wenn seit der begangenen strafbaren Handlung, oder der Einleitung der strafgerichtlichen Verfolgung, oder der erfolgten Verurtheilung nach den Gesetzen des ersuchten Staats Verjährung der strafgerichtlichen Verfolgung oder der erkannten Strafe eingetreten ist.

" Artikel VI.

" Ein flüchtiger Verbrecher soll nicht ausgeliefert werden, wenn die strafbare Handlung, wegen deren seine Auslieferung verlangt wird, einen politischen Character an sich trägt, oder wenn er beweisen kann, dass der Antrag auf seine Auslieferung in Wirklichkeit mit der Absicht gestellt worden ist, ihn wegen eines Verbrechens oder Vergehens politischer Natur zu verfolgen oder zu bestrafen.

" Artikel VII.

" Die ausgelieferte Person darf in dem Staate, an welchen die Auslieferung erfolgt ist, keinesfalls

which the surrender has been made, for any other crime or on account of any other matters than those for which the extradition shall have taken place.

"This stipulation does not apply to crimes committed after the extradition.

"Article VIII.

"The requisition for extradition shall be made through the Diplomatic Agents of the High Contracting Parties, respectively.

"The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition, and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there.

"If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent Court of the State that makes the requisition for extradition.

"A requisition for extradition cannot be founded on sentences passed *in contumaciam*.

"Article IX.

"If the requisition for extradition be in accordance with the foregoing stipulations, the competent authorities of the State applied to shall proceed to the arrest of the fugitive.

"The prisoner is then to be brought before a competent Magistrate, who is to examine him and to conduct the preliminary investigation of the case, just as if the apprehension had taken place for a crime committed in the same country.

"Article X.

"The extradition shall not take place before the expiration of fifteen days from the apprehension, and then only if the evidence be found

wegen einen anderen strafbaren Handlung oder auf Grund anderer Thatfachen, als derjenigen, wegen deren die Auslieferung erfolgt ist, in Haft gehalten oder zur Untersuchung gezogen werden.

"Auf strafbare Handlungen, welche nach erfolgter Auslieferung verübt sind, findet diese Bestimmung keine Anwendung.

"Artikel VIII.

"Die Anträge auf Auslieferung sollen durch die diplomatischen Agenten der hohen vertragenden Theile gestellt werden.

"Mit dem Antrage auf Auslieferung eines Beschuldigten müssen ein Haftbefehl, welcher von der zuständigen Behörde des die Auslieferung begehrenden Staates erlassen ist, und solche Beweise beigebracht werden, welche nach den Gesetzen des Ortes, wo der Beschuldigte aufgefunden wird, dessen Verhaftung rechtfertigen würden, wenn die strafbare Handlung dort begangen wäre.

"Betrifft der Antrag eine bereits verurtheilte Person, so muss das Straf-Urtheil beigebracht werden, welches von dem zuständigen Gericht des die Auslieferung begehrenden Staates gegen den Verurtheilten erlassen ist.

"Auf Straf-Urtheile, welche von Ungehorsams wegen (*in contumaciam*) erlassen sind, kann der Auslieferungs-Antrag nicht gegründet werden.

"Artikel IX.

"Wenn das Auslieferungsgesuch nach den vorstehenden Bestimmungen begründet ist, so sollen die zuständigen Behörden des ersuchten Staates zur Festnahme des Flüchtlings schreiten.

"Der Ergreifene wird sodann vor den dazu gesetzlich berufenen richterlichen Beamten gebracht, welcher ihn ebenso zu verhören und den Straffall vorläufig zu untersuchen hat, als wenn die Ergreifung wegen einer im Inlande begangenen strafbaren Handlung erfolgt wäre.

"Artikel X.

"Die Auslieferung erfolgt nicht vor Ablauf von fünfzehn Tagen seit der Ergreifung und nur dann, wenn die Beweise für genügend befunden

sufficient, according to the laws of the State applied to, either to justify the committal of the prisoner for trial, in case the crime had been committed in the territory of the said State, or to prove that the prisoner is the identical person convicted by the Courts of the State which makes the requisition.

“ Article XI.

“ In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the State applied to shall admit as entirely valid evidence the sworn depositions or statements of witnesses taken in the other State, or copies thereof, and likewise the warrants and sentences issued therein, provided such documents are signed or certified by a Judge, Magistrate, or Officer of such State, and are authenticated by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of State.

“ Article XII.

“ If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, he shall be set at liberty.

“ Article XIII.

“ All articles seized, which were in the possession of the person to be surrendered at the time of his apprehension, shall, if the competent authority of the State applied to for the extradition has ordered the delivery thereof, be given up when the extradition takes place, and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof of the crime.

“ Article XIV.

The High Contracting Parties renounce any claim for the reim-

worden sind, um nach den Gesetzen des ersuchten Staats entweder die Verweisung des Ergriffenen zur Hauptuntersuchung zu rechtfertigen, falls die strafbare Handlung im Gebiet dieses Staats begangen wäre, oder darzuthun, dass der Ergriffene mit der von den Gerichten des ersuchenden Staats verurtheilten Person identisch ist.

“ Artikel XI.

“ Die Behörden des ersuchten Staats haben bei der Prüfung, welche ihnen nach den vorstehenden Bestimmungen obliegt, den beidigten Zeugen - Aussagen, welche in dem anderen Staate zu Protokoll genommen sind, imgleichen den Abschriften solcher Original - Zeugen - Aussagen, und ebenso den Haftbefehlen und Straf - Urtheilen volle Beweiskraft beizulegen, vorausgesetzt, dass diese Schriftstücke durch einen Richter, eine obrigkeitliche Person oder einen anderen Beamten dieses Staates unterzeichnet oder beglaubigt und durch einen beidigten Zeugen oder durch Beidrückung des Amtssiegels des Justiz- oder eines anderen Staatsministers beglaubigt sind.

“ Artikel XII.

“ Wenn die zur Auslieferung genügenden Beweise nicht binnen zwei Monaten von dem Tage der Ergreifung des Flüchtigen an beigebracht werden, so ist der Ergriffene auf freien Fuss zu setzen.

“ Artikel XIII.

“ Alle in Beschlag genommenen Gegenstände, welche sich zur Zeit der Ergreifung im Besitze des Auszuliefernden befinden, sollen, wenn die zuständige Behörde des um die Auslieferung ersuchten Staats die Ausantwortung derselben angeordnet hat, bei Vollziehung der Auslieferung mit übergeben werden, und es soll sich diese Ueberlieferung nicht blos auf die entfremdeten Gegenstände, sondern auf Alles erstrecken, was zum Beweise der strafbaren Handlung dienen kann.

“ Artikel XIV.

“ Die hohen vertragenden Theile versichten darauf, die Erstattung

bursement of the expenses incurred by them in the arrest and maintenance of the person to be surrendered, and his conveyance till placed on board ship; they reciprocally agree to bear such expenses themselves.

"ARTICLE XV.

"The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of Her Britannic Majesty.

"The requisition for the surrender of a fugitive criminal who has taken refuge in any of such Colonies or foreign possessions shall be made to the Governor or Chief Authority of such Colony or possession by the Chief Consular Officer of the German Empire in such Colony or possession.

"Such requisitions may be disposed of, subject always, as nearly as may be, to the provisions of this Treaty, by the said Governor or Chief Authority, who, however, shall be at liberty either to grant the surrender, or to refer the matter to his Government.

"Her Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of German criminals, who may take refuge within such Colonies and foreign possessions, on the basis, as nearly as may be, of the provisions of the present Treaty.

"The requisition for the surrender of a fugitive criminal from any Colony or foreign possession of Her Britannic Majesty shall be governed by the rules laid down in the preceding Articles of the present Treaty.

Article XVI.

"The present Treaty shall come into force ten days after its publication in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be

derjenigen Kosten, welche ihnen aus der Festnahme und dem Unterhalt des Aussuliernden und seinem Transport bis zur Einschiffung erwachsen, in Anspruch zu nehmen, willigen vielmehr gegenseitig darin, diese Kosten selbst zu tragen.

" Artikel XV.

"Die Bestimmungen des gegenwärtigen Vertrages sollen auf die Colonien und auswärtigen Besitzungen Ihrer Grossbritannischen Majestät Anwendung finden.

"Der Antrag auf Auslieferung eines flüchtigen Verbrechers, welcher in einer dieser Colonien oder auswärtigen Besitzungen Zuflucht gefunden hat, soll an den Statthalter oder die oberste Behörde dieser Colonie oder Besitzung durch den obersten Consular-Beamten des Deutschen Reichs in dieser Colonie oder Besitzung gerichtet werden.

"Ueber solche Anträge soll der gedachte Statthalter oder die gedachte oberste Behörde so viel als möglich nach den Bestimmungen des gegenwärtigen Vertrages befinden, jedoch soll denselben freistehen, entweder die Auslieferung zu bewilligen oder über den Fall an ihre Regierung zu berichten.

"Ihrer Grossbritannischen Majestät solles jedoch freistehen, in den Britischen Colonien und auswärtigen Besitzungen über die Auslieferung Deutscher Verbrecher, welche innerhalb dieser Colonien und auswärtigen Besitzungen Zuflucht gefunden haben, auf möglichst gleicher Grundlage mit den Bestimmungen des gegenwärtigen Vertrages besondere Anordnungen zu treffen.

"Anträge betreffend die Auslieferung von Verbrechern, welche aus einer Colonie oder auswärtigen Besitzung Ihrer Grossbritannischen Majestät geflüchtet sind, sollen nach den Bestimmungen der vorstehenden Artikel des gegenwärtigen Vertrags behandelt werden.

Artikel XVI.

"Der gegenwärtige Vertrag soll zehn Tage nach seiner, in Gemässheit der durch die Gesetzgebung der hohen vertragenden Theile vorgeschriebenen Formen erfolgten

terminated by either of the High Contracting Parties, but shall remain in force for six months after notice has been given for its termination.

"The Treaty shall be ratified, and the ratifications shall be exchanged at London in four weeks, or sooner if possible.

"In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

"Done at London, the fourteenth day of May, in the year of our Lord One thousand eight hundred and seventy-two.

"(L.S.) *Granville.*
"(L.S.) *Bernstorff."*

Veröffentlichung in Kraft treten. Der Vertrag kann von jedem der beiden hohen vertragenden Theile aufgekündigt werden, bleibt jedoch nach erfolgter Aufkündigung noch sechs Monate in Kraft.

"Der Vertrag wird ratifizirt und die Ratifikationen werden nach vier Wochen, oder wo möglich früher, in London ausgewechselt werden.

"Zu Urkund dessen haben die beiderseitigen Bevollmächtigten die gegenwärtige Uebereinkunft unterzeichnet und mit ihren Wappen unterschiegelt.

"So geschehen zu London am Vierzehnten Mai, im Jahre des Herrn Ein tausend achthundert und zwei und siebenzig.

"(L.S.) *Granville.*
"(L.S.) *Bernstorff."*

And whereas the ratifications of the said Treaty were exchanged at London on the 11th day of June instant :

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and in virtue of the authority committed to Her by the said recited Act, doth order, and it is hereby ordered, that from and after the 8th day of July, 1872, the said Act shall apply in the case of the said Treaty with the Emperor of Germany.

Arthur Helps.

1895. No. 58.

At the Court at Osborne House, Isle of Wight, the 2nd day of February, 1895.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.
Marquess of Ripon.
Lord Chamberlain.

Lord Kensington.
Mr. Cecil Rhodes.

Whereas * * * [Here follow the first three recitals to the Order relating to the Argentine Republic, printed at p. 1 above.]

And whereas a Treaty was concluded on the 5th day of May, 1894, between Her Majesty and His Majesty The German Emperor, King of Prussia, for the mutual extradition of fugitive criminals between the territories of Her Majesty and certain Dependencies of Germany, which Treaty is in the terms following:—

“Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Majesty the German Emperor, King of Prussia, considering it advisable to regulate by a Treaty the extradition of criminals between certain dependencies of Germany and the territories of Her Britannic Majesty, have appointed as their Plenipotentiaries for this purpose:

“Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, the Right Honourable John, Earl of Kimberley, Knight of the Most Noble Order of the Garter, &c., &c., Her Britannic Majesty's Secretary of State for Foreign Affairs; and

“His Majesty the German Emperor, King of Prussia, His Minister of State, Paul, Count von Hatzfeldt-Wildenburg, Knight of the Exalted Order of the Black Eagle, &c., &c., Ambassador Extraordinary and Plenipotentiary of His Imperial and Royal Majesty to Her Britannic Majesty;

“Who, after having communicated to each other their respective Full Powers, which were found to be in good and due form, have agreed to and concluded the following Articles:—

“Article I.

“The provisions of the Extradition Treaty signed between Germany and Great Britain on the 14th May, 1872,* shall be applicable to the dependencies of Germany specified in the following Article, in such manner that persons in any of these dependencies, and within the sphere of the authorities established there, who are accused, or who

“Nachdem Ihre Majestät die Königin des Vereinigten Königreichs von Grossbritannien und Irland, Kaiserin von Indien, und Seine Majestät der Deutsche Kaiser, König von Preussen, es für zweckmässig befunden haben, die Auslieferung der Verbrecher zwischen gewissen von Deutschland abhängigen Gebieten und den Gebieten Ihrer Grossbritannischen Majestät durch einen Vertrag zu regeln, haben Allherhöchstdieselben zu diesem Zweck mit Vollmacht versehen und zwar:

“Ihre Majestät die Königin des Vereinigten Königreichs von Grossbritannien und Irland, Kaiserin von Indien, den sehr ehrenwerthen John, Grafen von Kimberley, Ritter des Höchstedlen Ordens von Hosenband, &c., &c., Allherhöchstihren Haupt-Staatssekretär für die Auswärtigen Angelegenheiten; und

“Seine Majestät der Deutsche Kaiser, König von Preussen, Allherhöchstihren Staatsminister, Paul, Grafen von Hatzfeldt-Wildenburg, Ritter des hohen Ordens vom Schwarzen Adler, &c., &c., ausserordentlichen und bevollmächtigten Botschafter Seiner Kaiserlichen und Königlichen Majestät bei Ihrer Grossbritannischen Majestät;

“Welche nach gegenseitiger Mittheilung ihrer in guter und gehöriger Form befundenen Vollmachten über folgende Artikel übereingekommen sind:—

“Artikel I.

“Die Bestimmungen des zwischen Deutschland und Grossbritannien am 14. Mai, 1872,* unterzeichneten Auslieferungsvertrages sollen auf die im nachfolgenden Artikel näher bezeichneten, von Deutschland abhängigen Gebiete derart Anwendung finden, dass auch die in einem dieser Gebiete innerhalb des Bereichs der daselbst bestehenden

* Printed at pp. 100–107 above.

have been convicted, of having committed a criminal act in the territories of Her Britannic Majesty, and persons in any of the aforesaid territories of Her Britannic Majesty, who are accused, or who have been convicted, of having committed a criminal Act in any of the dependencies of Germany, shall be mutually extradited in accordance with the provisions of the aforesaid Treaty, in so far as they are not modified by the present Treaty.

Behörden sich aufhaltenden Personen, die einer im Vereinigten Königreich von Grossbritannien und Irland oder in den Kolonien und auswärtigen Besitzungen Ihrer Grossbritannischen Majestät begangenen straffbaren Handlung beschuldigt oder schuldig befunden sind, und die in einem der bezeichneten Gebiete Ihrer Grossbritannischen Majestät sich aufhaltenden Personen, die einer in den von Deutschland abhängigen Gebieten begangenen straffbaren Handlung beschuldigt oder schuldig befunden sind, in Gemässheit der Bestimmungen jenes Vertrages, soweit nicht der gegenwärtige Vertrag etwas Abweichendes festsetzt, gegenseitig auszuliefern sind.

“ Article II.

“ For the purposes of the present Treaty, the following are the dependencies of Germany referred to in Article I:—

“ The territories in Africa, in New Guinea, and in the Pacific Ocean which, by agreement between Germany and Great Britain have been, or shall in future be, reserved to Germany as spheres of influence, Protectorates, or possessions.

“ Artikel II.

“ Unter den von Deutschland abhängigen Gebieten (Artikel I) sind im Sinne des gegenwärtigen Vertrages zu verstehen:—

“ Die Gebiete in Afrika, in Neu-Guinea und im Westlichen Stillen Ozean, die durch Uebereinkommen zwischen Deutschland und Grossbritannien als Interessensphären, Schutzgebiete oder Besitzungen Deutschland vorbehalten worden sind oder noch vorbehalten werden sollten.

“ Article III.

“ In place of Article III of the Extradition Treaty of the 14th May, 1872, it is hereby provided, with regard to the dependencies of Germany, that there shall be no obligation to grant the extradition from those dependencies of natives or of subjects of the Empire, and that the British authorities shall be under no obligation to grant the extradition of British subjects who have been accused or convicted of a criminal act in those dependencies.

“ Artikel III.

“ An Stelle des Artikels III des Auslieferungsvertrages vom 14. Mai, 1872, soll für die von Deutschland abhängigen Gebiete gelten, dass die Verpflichtung zur Auslieferung aus diesen Gebieten sich nicht auf deren Eingeborene, sowie auf Reichsangehörige und die Verpflichtung der Britischen Behörden zur Auslieferung von Personen, die in jenen Gebieten einer straffbaren Handlung beschuldigt oder schuldig befunden sind, sich nicht auf Britische Unterthanen erstreckt.

“ Article IV.

“ There shall be no obligation to grant extradition from the dependencies of Germany in cases where, before the extradition has taken place, such an application has been received for the transfer of the person in question to the territory

“ Artikel IV.

“ Die Verpflichtung zur Auslieferung aus den von Deutschland abhängigen Gebieten fällt weg, wenn vor Ausführung der Auslieferung ein Antrag auf Ablieferung der beanspruchten Person nach dem Gebiete des Deutschen Reichs

of the German Empire as must, according to law, be complied with. The granting of extradition from a dependency of Germany must always be considered as being on the condition that no such application shall have been received before the extradition is carried out. In case the transfer to Germany takes place, it shall, however, be open to the British Government to apply for the extradition of the person concerned from Germany, in accordance with the terms of the Treaty of the 14th May, 1872.

eingeht, dem nach gesetzlicher Vorschrift entsprechen werden muss. Die Bewilligung der Auslieferung aus einem der von Deutschland abhängigen Gebiete soll stets als unter der Bedingung geschehen gelten, dass ein solcher Antrag auf Ablieferung bis zur Ausführung der Auslieferung nicht eingegangen ist. Es bleibt im Falle der Ablieferung nach Deutschland der Königlich Grossbritannischen Regierung aber vorbehalten, die demnächstige Auslieferung aus Deutschland auf Grund und nach Massgabe des Vertrages vom 14. Mai, 1872, in Antrag zu bringen.

" Article V.

"Applications for extradition from dependencies of Germany shall be made through the British Ambassador at Berlin, in accordance with paragraph 1 of Article VIII of the Treaty of the 14th May 1872, but in the case of persons who are accused, or who have been convicted, of criminal acts in the Colonies or foreign possessions of Her Britannic Majesty, the application for extradition may be made to the chief authority of the dependency of Germany from which the extradition of the persons in question is desired by the chief Consular officer of Her Britannic Majesty in the dependency in question, if there be a Consular officer therein, or, if there be none, then by the Governor or other chief authority of the Colony or foreign possession of Her Britannic Majesty concerned. It shall, however, be open to the chief authority of the dependency of Germany to refer to the German Government in case of doubt whether the application for extradition should be complied with.

"Applications for the extradition of criminals to one of the dependencies of Germany shall be made in the manner provided in Article VIII, paragraph 1, and Article XV

" Artikel V.

"Die Anträge auf Auslieferung aus einem der von Deutschland abhängigen Gebiete sollen, wie im Absatz 1 des Artikels VIII des Vertrages vom 14. Mai 1872, vorgesehen ist, durch die Königlich Grossbritannische Botschaft in Berlin gestellt werden mit der Massgabe jedoch, dass, falls es sich um Personen handelt, die einer in den Kolonien oder auswärtigen Besitzungen Ihrer Grossbritannischen Majestät begangenen strafbaren Handlung beschuldigt oder schuldig befunden sind, der Antrag auf Auslieferung auch bei der obersten Behörde des von Deutschland abhängigen Gebietes, aus dem die Auslieferung der fraglichen Personen gewünscht wird, durch den obersten Konsularbeamten Ihrer Grossbritannischen Majestät in dem betreffenden Gebiete, wenn ein solcher vorhanden ist, oder, wenn dieses nicht der Fall ist, durch den Statthalter oder die sonstige oberste Behörde der bei der Angelegenheit beteiligten Kolonie oder auswärtigen Besitzung Ihrer Majestät gestellt werden kann. Der obersten Behörde des betreffenden Gebiets von Deutschland abhängigen Gebietes bleibt es jedoch vorbehalten, wenn es ihr zweifelhaft erscheint, ob dem Auslieferungsantrage zu entsprechen ist, darüber an ihre Regierung zu berichten.

"Anträge auf Auslieferung von Verbrechern an eines der von Deutschland abhängigen Gebiete sind auf dem in Artikel VIII, Absatz 1, und Artikel XV, des

of the Treaty of the 14th May 1872; in case, however, there should be no German Consular officer in the Colony or foreign possession of Her Britannic Majesty from which the extradition is desired, the application may be made by the Governor or other chief authority of the dependency of Germany which is concerned to the Governor or other chief authority of the Colony or possession concerned.

“Article VI.

“The present Treaty shall be ratified, and the ratifications shall be exchanged as soon as possible.

“The Treaty shall come into operation two months after the exchange of the ratifications, and shall remain in force as long as the Treaty of the 14th May 1872 remains in force, that is, it shall terminate with the termination of that Treaty.

“In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

“Done at London, the fifth day of May, in the year of Our Lord one thousand eight hundred and ninety-four.

Vertrages vom 14. Mai 1872, vorgesehenen Wege zu stellen, mit der Massgabe jedoch, dass, wenn ein deutscher Konsularbeamter in der Kolonie oder auswärtigen Besizung Ihrer Grossbritannienischen Majestät, aus der die Auslieferung gewünscht wird, nicht vorhanden ist, der Auslieferungsantrag durch den Gouverneur oder die sonstige oberste Behörde des bei der Angelegenheit beteiligten von Deutschland abhängigen Gebietes an den Statthalter oder die sonstige oberste Behörde der betreffenden Kolonie oder Besizung gerichtet werden kann.

“Artikel VI.

“Der gegenwärtige Vertrag soll ratifizirt und die Ratifikations-Urkunden sollen so bald wie möglich ausgetauscht werden.

“Der Vertrag soll zwei Monate nach Austausch der Ratifikations-Urkunden in Kraft treten und so lange in Kraft bleiben wie der Vertrag vom 14. Mai, 1872, also ausser Kraft treten, wenn dieser ausser Kraft tritt.

“Zu Urkund dessen haben die beiderseitigen Bevollmächtigten denselben unterzeichnet und ihre Siegel beigeschrieben.

“So geschehen zu London am fünften Mai, im Jahre des Herrn ein tausend acht hundert und vier und neunzig.

“(L.s.) *Kimberley.*

“(L.s.) *P. Hatfeldt.*”

And whereas the ratifications of the said Treaty were exchanged at London on the 3rd day of December, 1894.

Now, therefore, Her Majesty, by and with the advice of her Privy Council, and in virtue of the authority committed to her by the said recited Acts, doth order, and it is hereby ordered, that from and after the 3rd day of February, 1895, the said Acts shall apply in the case of the said Treaty with His Majesty the German Emperor; King of Prussia and of the Dependencies of Germany referred to therein.

Provided always, and it is hereby further ordered, that the operation of the said Extradition Acts, 1870* and 1873,† shall be suspended within the Dominion of Canada so far as relates to the said Dependencies of Germany and to the said Treaty, and so long as the provisions of the Canadian Act aforesaid of 1886‡ continue in force, and no longer.

* 33 & 34 Vict. c. 52.

† 36 & 37 Vict. c. 60.

‡ “The Extradition Act” (Revised Statutes of Canada, c. 142).

And whereas the immediate operation of this Order is urgent this Order shall come into operation on the said 3rd day of February, 1895.

C. L. Peel.

(/) Guatemala.

At the Court at Windsor, the 26th day of November, 1886.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.

Earl of Rosslyn.

Viscount Cross.

Lord Stanley of Preston.

Whereas * * * [*Here follows the first recital to the Order relating to the Argentine Republic and the second recital to the Order relating to Ecuador, printed respectively at pp. 1, 76 above.*]

And whereas a Treaty was concluded on the Fourth day of July, One thousand eight hundred and eighty-five, between Her Majesty and the President of the Republic of Guatemala, for the mutual extradition of fugitive criminals, which Treaty is in the terms following;—

“Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Excellency the President of the Republic of

“Su Majestad la Reina del Reino Unido de Gran Bretaña é Irlanda y su Excelencia el Presidente de la República de Guatemala, habiendo

Guatemala, having judged it expedient, with a view to the better administration of justice, and to the prevention of crime within the two countries and their jurisdictions, that persons charged with or convicted of the crimes or offences hereinafter enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up, have named as their Plenipotentiaries to conclude a Treaty (that is to say):

"Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, James Plaister Harriis-Gastrell, Esquire, Her Britannic Majesty's Minister Resident and Consul-General to the Republic of Guatemala;

"And his Excellency the President of the Republic of Guatemala, his Excellency Señor don Manuel J. Dardon, Secretary of State for Foreign Affairs of the Republic of Guatemala;

"Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles:—

" Article I.

"The High Contracting Parties engage to deliver up to each other, under the circumstances and conditions stated in the present Treaty, those persons who, being accused or convicted of any of the crimes or offences enumerated in Article II., committed in the territory of the one Party, shall be found within the territory of the other Party.

" Article II.

"The extradition shall be reciprocally granted for the following crimes or offences:—

"1. Murder (including assassination, parricide, infanticide, poisoning), or attempt to murder.

"2. Manslaughter.

"3. Administering drugs or using instruments with intent to procure the miscarriage of women.

"4. Rape.

"5. Aggravated or indecent assault; carnal knowledge of a girl under the age of 10 years; carnal

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juzgado conveniente, con la mira de mejorar la administracion de justicia y prevenir los crímenes en ámbos países y sus jurisdicciones, que las personas acusadas ó convictas de los delitos ó crímenes que en seguida se enumerarán, huyendo la justicia, sean, bajo ciertas circunstancias, recíprocamente entregadas, han nombrado por sus Plenipotenciarios para concluir un Tratado, á saber:

"Su Majestad la Reina del Reino Unido de Gran Bretaña é Irlanda, James Plaister Harriis-Gastrell, Esquire, Ministro Residente de Su Majestad Británica y Consul-General al Republica de Guatemala:

"Y su Excelencia el Señor Presidente de la Republica de Guatemala, su Excelencia el Señor Don Manuel J. Dardon, Secretario de Estado en el Despacho de Relaciones Exteriores de la República de Guatemala;

"Quienes, despues de haberse comunicado mutuamente sus respectivos plenos poderes, y encontrándolos en buena y debida forma, han aceptado y admitido los Artículos siguientes:—

" Artículo I.

"Las Altas Partes Contratantes se comprometen á entregarse recíprocamente en las condiciones y circunstancias expresadas en el presente Tratado, las personas que siendo acusadas ó convictas de los delitos ó crímenes enumerados en el Artículo II., cometidos en el territorio de una de las Partes, se encuentren dentro del territorio de la otra Parte.

" Artículo II.

"La extradición sera recíprocamente acordada por los siguientes crímenes ó delitos:—

"1. Homicidio premeditado (incluyendo el asesinato, el parricidio, el infanticidio, el envenenamiento), ó tentativa de homicidio premeditado.

"2. Homicidio.

"3. Administracion de drogas ó el uso de instrumentos á fin de ocasionar el aborto en las mujeres.

"4. Estupro.

"5. Atentado al pudor con violencia; relaciones sensuales con una muchacha menor de 10 años

knowledge of a girl above the age of 10 and under the age of 12 years; indecent assault upon any female, or any attempt to have carnal knowledge of a girl under 12 years of age.

"6. Kidnapping and false imprisonment, child-stealing, abandoning, exposing, or unlawfully detaining children.

"7. Abduction of minors.

"8. Bigamy.

"9. Wounding, or inflicting grievous bodily harm.

"10. Assaulting a Magistrate, or peace or public officer.

"11. Threats, by letter or otherwise, with intent to extort money, or other things of value.

"12. Perjury, or subornation of perjury.

"13. Arson.

"14. Burglary or housebreaking, robbery with violence, larceny, or embezzlement.

"15. Fraud by a bailee, banker, agent, factor, trustee, director, member, or public officer of any Company, made criminal by any law for the time being in force.

"16. Obtaining money, valuable security, or goods by false pretences; receiving any money, valuable security, or other property, knowing the same to have been stolen or unlawfully obtained.

"17. (a.) Counterfeiting or altering money, or bringing into circulation counterfeited or altered money.

"(b.) Forgery or counterfeiting or altering, or uttering what is forged, counterfeited or altered.

"(c.) Knowingly making, without lawful authority, any instrument, tool, or engine adapted and intended for the counterfeiting of coin of the realm or national coin.

"18. Crimes against Bankruptcy Law.

"19. Any malicious act done with intent to endanger persons in a railway train.

relaciones sensuales con una muchacha mayor de 10 años y menor de 12 años: atentado al pudor con cualquiera mujer ó tentativa alguna para tener relaciones sensuales con una muchacha menor de 12 años.

"6. Hurto de niños ó adultos para trasportarlos á otro país ó conservarlos en le mismo (plagio), indebida encarceracion, abandono, exposicion, y encierro ilegal de niños ó adultos.

"7. Rapto de menores.

"8. Bigamia.

"9. Heridas ó golpes graves en el cuerpo.

"10. Violencias contra algun Magistrado, oficial de paz ó publico.

"11. Amenazas por medio de cartas o de otra manera, con ánimo de obtener indebidamente dinero ó otras cosas le valor.

"12. Perjurio, soborno para perjurio.

"13. Incendio voluntario.

"14. Robo con efraccion, rpto con violencia, rateria, y hurto.

"15. Fraude cometido por un depositario de bienes, banquero, mandatarlo, comisionista, administrador de bienes ajenos, tutor, curador, liquidador, sindico, oficial ministerial, director, miembro ó oficial público de alguna Compañia, considerado el fraude como criminal por alguna ley vigente.

"16. Estafa ó todo lo que sea obtener dinero, fianza ó mercaderias por medio de falsos datos; recibir dinero, fianza ó cualesquiera otros valores, sabiendo que han sido robados ó adquiridos en oposicion á las leyes.

"17. (a.) Falsificar ó alterar moneda, ó poner en circulacion moneda falsa ó alterada.

"(b.) Contrahacer, falsificar ó alterar, ó poner en circulacion lo que está falsificado, contrahecho ó alterado.

"(c.) Hacer premeditadamente, sin permiso de la autoridad constituida, algun instrumento, herramienta, ó máquina con la intencion de falsificar ó contrahacer la moneda nacional.

"18. Crímenes cometidos contra la Ley de Quiebras.

"19. Cualquier acto doloso ejecutado con la mira de poner en peligro las personas que viajen en trenes de ferro carriles.

" 20. Malicious injury to property, if such offence be indictable.

" 21. Crimes committed at sea :—

" (a.) Piracy, by the law of nations.

" (b.) Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

" (c.) Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.

" (d.) Assault on board a ship on the high seas with intent to destroy life, or to do grievous bodily harm.

" 22. Dealing in slaves in such manner as to constitute an offence against the laws of both countries.

" The extradition is also to take place for participation in any of the aforesaid crimes as an accessory before or after the fact, provided such participation be punishable by the laws of both Contracting Parties.

" Article III.

" No Guatemalan shall be delivered up by the Government of Guatemala to the Government of the United Kingdom, and no subject of the United Kingdom shall be delivered up by the Government thereof to the Government of Guatemala.

" Article IV.

" The extradition shall not take place if the person claimed on the part of the Government of the United Kingdom, or the person claimed on the part of the Government of Guatemala, has already been tried and discharged or punished, or is still under trial in the territory of Guatemala or in the United Kingdom respectively for the crime for which his extradition is demanded.

" If the person claimed on the part of the Government of the United Kingdom, or on the part of the Government of Guatemala, should be under examination for any other crime in the territory of Guatemala or in the United Kingdom respectively, his extradition shall be deferred until the conclusion of the trial and the full execution of any punishment awarded to him.

" 20. Perjuicio malicioso causado á la propiedad, si el delito es justiciable.

" 21. Delitos cometidos en el mar :—

" (a.) Pirateria, segun la ley de las naciones.

" (b.) Echar á pique ó destruir un buque en el mar, ó esforzarse ó conspirar para hacerlo.

" (c.) Sublevacion ó conspiracion para rebelarse, de dos ó más personas á bordo de un buque, en alta mar, contra la autoridad del capitan.

" (d.) Ataques á bordo de un buque en alta mar, con intencion de quitar la vida ó de hacer otro daño grave corporal.

" 22. Darse al Tráfico de Esclavos, si fuese con violacion de las leyes en ámbos países.

" La extradicion tambien se puede pedir por la participacion en cualquiera de los crímenes mencionados más arriba, como un accesorio ántes ó despues del hecho, con tal que dicha participacion sea castigado por las leyes de las dos Partes Contratantes.

" Artículo III.

" Ningun Guatemalteco será entregado por el Gobierno de Guatemala al Gobierno del Reino Unido, y ningun súbdito del Reino Unido será entregado por su Gobierno al Gobierno de Guatemala.

" Artículo IV.

" La extradición no se efectuará si la persona reclamada por parte del Gobierno del Reino Unido, ó la persona reclamada por parte del Gobierno de Guatemala, ha sido ya juzgada, absuelta, ó castigada, ó está aún procesándose en el territorio de Guatemala ó del Reino Unido respectivamente, por el delito por el cual se pide la extradición.

" Si la persona reclamada por parte del Gobierno del Reino Unido, ó por parte del Gobierno de Guatemala, estuviese sometida á juicio por algun otro delito en el territorio de Guatemala ó del Reino Unido respectivamente, se diferirá su extradición hasta el fin del juicio y la plena ejecucion de cualquiera castigo á que fuese condenada.

" Article V.

" The extradition shall not take place if, subsequently to the commission of the crime, or the institution of the penal prosecution or the conviction thereon, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the State applied to.

" Article VI.

" A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove that the requisition for his surrender has, in fact, been made with a view to try or punish him for an offence of a political character.

" Article VII.

" A person surrendered can in no case be kept in prison or be brought to trial in the State to which the surrender has been made, for any other crime, or on account of any other matters, than those for which the extradition shall have taken place. This stipulation does not apply to crimes committed after the extradition.

" Article VIII.

" The requisition for extradition shall be made through the Diplomatic Agents of the High Contracting Parties respectively.

" The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition, and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there.

" If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent Court of the State that makes the requisition for extradition.

" A requisition for extradition cannot be founded solely on sentences passed *in contumaciam*, but persons convicted for contumacy shall be deemed to be accused persons.

" Artículo V.

" La extradición no se efectuará si, subsecuentemente á la ejecución del crimen ó al empezar el proceso, ó á la convicción del reo, se puede oponer la prescripción para que sea exento de proceso ó del castigo, según las leyes del Estado al cual se reclama.

" Artículo VI.

" El reo fugitivo no será entregado si el delito por el cual se pide la extradición es de un carácter político, ó si se prueba que la petición para en regarlo se ha hecho en efecto con la mira de juzgarlo ó castigarlo por un delito de carácter político.

" Artículo VII.

" Una persona entregada no podrá, en ningún caso, ser mantenida en prisión ó procesada en el Estado al que se ha hecho la entrega, por ningún otro crimen ó delito, ó por ninguna otra causa que aquella por la cual se ha efectuado la extradición. Esta estipulación no se aplica á crímenes cometidos después de la extradición.

" Artículo VIII.

" La petición de extradición se hará respectivamente por medio de los Agentes Diplomáticos de las Altas Partes Contratantes.

" La demanda de extradición de una persona acusada debe ir acompañada de una orden de prisión, dictada por la autoridad competente del Estado que pide la extradición, y fundada en testimonios tales que según las leyes del lugar donde se encuentre el acusado, justifiquen su prisión como si el delito hubiese sido cometido allí.

" Si la demanda se refiere á una persona ya convicta, debe ir acompañada de la sentencia de condenación pronunciada contra la persona convicta por el Tribunal competente del Estado que hace la demanda de extradición.

" Una demanda de extradición no puede fundarse solamente en sentencias dictadas por contumacia: pero las personas convictas de contumacia deben ser consideradas como acusadas.

" Article IX.

" If the requisition for extradition be in accordance with the foregoing stipulations, the competent authorities of the State applied to shall proceed to the arrest of the fugitive.

" The prisoner is then to be brought before a competent Magistrate, who is to examine him, and to conduct the preliminary investigation of the case, just as if the apprehension had taken place for a crime committed in the same country.

" Article X.

" A fugitive criminal may be apprehended under a warrant issued by any Police Magistrate, Justice of the Peace, or other competent authority in either country, on such information or complaint, and such evidence, or after such proceedings as would, in the opinion of the authority issuing the warrant, justify the issue of a warrant if the crime had been committed or the person convicted in that part of the dominions of the two Contracting Parties in which the Magistrate, Justice of the Peace, or other competent authority exercises jurisdiction: provided, however, that in the United Kingdom the accused shall, in such case, be sent as speedily as possible before a Police Magistrate in London. He shall, in accordance with this Article, be discharged, as well in Guatemala as in the United Kingdom, if within the term of thirty days a requisition for extradition shall not have been made by the Diplomatic Agent of his country in accordance with the stipulations of this Treaty.

" The same rule shall apply to the cases of persons accused or convicted of any of the crimes or offences specified in this Treaty, and committed on the high seas on board any vessel of either country which may come into a port of the other.

" Article XI.

" The extradition shall take place only if the evidence be found sufficient, according to the laws of the State applied to, either to justify the committal of the prisoner for

" Artículo IX.

" Si la demanda de extradición está de acuerdo con las precedentes estipulaciones, las autoridades competentes del Estado al que se dirige la petición procederán á la prisión del fugitivo.

" El prisionero sera conducido entónces ante el Magistrado competente, quien debe examinarlo y hacer la investigación preliminar del caso, como si la aprehension se hubiese efectuado por un delito cometido en el mismo país.

" Artículo X.

" Un delincuente fugitivo puede ser aprehendido en virtud de una orden de prisión dictada por cualquier Magistrado de Policía, Juez de Paz ú otra autoridad competente en ámbos países, teniendo á la vista tales informes ó quejas, y tales pruebas, ó habiéndose procedido á tales diligencias que, en la opinion de la autoridad que dicta la orden de prisión, justificaria dicha orden si el crimen hubiese sido cometido ó si la persona hubiese sido convencida en la parte del territorio de las dos Partes Contratantes en la cual el Magistrado, Juez de Paz, ú otra autoridad competente ejerce jurisdicción; con tal, sin embargo, de que en el Reino Unido el acusado sea en tal caso conducido tan pronto como se pueda ante un Magistrado de Policía en Lóndres. El criminal fugitivo será, segun este Artículo, puesto en libertad, sea en Guatemala ó en el Reino Unido, si en el término de treinta dias no se hubiese hecho la demanda de extradición por medio del Ajente Diplomático de su país, conforme á las estipulaciones de este Tratado.

" La misma regla será aplicada al caso de las personas acusadas ó convictas de alguno de los delitos ó crímenes especificados en este Tratado, y cometidos en alta mar á bordo de cualquier buque de uno ú otro país que entre en un puerto del otro.

" Artículo XI.

" La extradición se efectuará solamente si los testimonios se encuentran suficientes segun las leyes del Estado á que se hace la demanda, ya sea para justificar el

trial, in case the crime had been committed in the territory of the same State, or to prove that the prisoner is the identical person convicted by the Courts of the State which makes the requisition, and no criminal shall be surrendered until after the expiration of fifteen days from the date of his committal to prison to await the warrant for his surrender.

" Article XII.

" In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the State applied to shall admit as entirely valid evidence the sworn depositions or statements of witnesses taken in the other State, or copies thereof, and likewise the warrants and sentences issued therein, provided such documents purport to be signed or certified by a Judge, Magistrate, or Officer of such State, and are authenticated by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of State.

" Article XIII.

" If the individual claimed by one of the two High Contracting Parties, in pursuance of the present Treaty, should be also claimed by one or several other Powers, on account of other crimes or offences committed upon their respective territories, his extradition shall be granted to that State whose demand is earliest in date; unless any other arrangement should have been made between the different Governments to determine the preference, either on account of the gravity of the crime or offence, or for any other reason.

" Article XIV.

" If sufficient evidence for the extradition be not produced within three months from the date of the apprehension of the fugitive, he shall be set at liberty.

" Article XV.

" All articles seized which were in the possession of the person to be surrendered at the time of his apprehension shall, if the com-

sometimiento á juicio del preso, en caso en que el crimen hubiese sido cometido en territorio de dicho Estado, ó para probar la identidad del preso convencido por los Tribunales del Estado que hace la demanda, y ningun delincuente ó criminal puede ser entregado antes de pasados quince dias desde la fecha de su sometimiento á juicio, en tanto que se dicte la orden de entrega.

" Artículo XII.

" En el exámen que se haga de conformidad con las precedentes estipulaciones, las autoridades del Estado á que se ha recurrido reconocerán como plena prueba las deposiciones juradas y las relaciones de los testigos hechas en el otro Estado, ó las copias de aquellas, y asimismo las órdenes y sentencias pronunciadas, con tal que esos documentos estén firmados ó certificados por un Juez, Magistrado, ú Oficial de dicho Estado, y sean autenticados por el juramento de algun testigo, ó que sean sellados con el sello oficial del Ministro de Justicia ó de algun otro Ministro de Estado

" Artículo XIII.

" Si el individuo reclamado por una de las Altas Partes Contratantes, conforme al presente Tratado, fuese reclamado simultáneamente por uno ó varios otros Estados, por otros delitos ó crímenes cometidos en sus respectivos territorios, su extradición será otorgada al Estado que ha presentado primero la demanda de extradición; á menos que algun otro arreglo no haya sido estipulado entre los diferentes Gobiernos, para determinar la preferencia, ya sea en vista de la gravedad del crimen ó delito, ó ya por cualquiera otra causa.

" Artículo XIV.

" Si despues de tres meses de la aprehension del fugitivo no se hubiere aducido prueba bastante para la extradición, será puesto en libertad.

" Artículo XV.

" Cualesquiera articulos que se embarguen á la persona aprehendida, si la autoridad competente del Estado requerido para la extradición

potent authority of the State applied to for the extradition has ordered the delivery of such articles, be given up when the extradition takes place; and the said delivery shall extend, not merely to the stolen articles, but to everything that may serve as a proof of the crime.

" Article XVI.

" The High Contracting Parties renounce any claim for the reimbursement of the expenses incurred by them in the arrest and maintenance of the person to be surrendered and his conveyance till placed on board ship; they reciprocally agree to bear such expenses themselves.

" Article XVII.

" The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of Her Britannic Majesty.

" The requisition for the surrender of a fugitive criminal who has taken refuge in any of such Colonies or foreign possessions shall be made to the Governor or chief authority of such Colony or possession by the Chief Consular Officer of the Republic of Guatemala in such Colony or possession.

" Such requisition may be disposed of, subject always, as nearly as may be, to the provisions of this Treaty, by the said Governor or chief authority, who, however, shall be at liberty either to grant the surrender or to refer the matter to his Government.

" Her Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of Guatemalan criminals who may take refuge within such Colonies and foreign possessions, on the basis, as nearly as may be, of the provisions of the present Treaty.

" The requisition for the surrender of a fugitive criminal from any Colony or foreign possession of Her Britannic Majesty shall be governed by the rules laid down in the preceding Articles of the present Treaty.

" Article XVIII.

" The present Treaty shall come into force ten days after its publication, in conformity with the forms

ha ordenado la entrega de ellos, serán entregados al tiempo de verificarse aquella; y se hará no sólo de los artículos robados sino de todo lo que pueda servir como prueba del crimen.

" Artículo XVI.

" Las Altas Partes Contratantes renuncian á cualquier reclamacion por el reembolso de los gastos hechos en la captura y mantenimiento de la persona que há de entregarse, y en su conduccion hasta ponerla á bordo del buque, comprometiéndose reciprocamente á hacer ellas mismas tales gastos.

" Artículo XVII.

" Las estipulaciones del presente Tratado serán aplicables á las Colonias y posesiones extranjeras de Su Majestad Británica.

" La peticion para la entrega de un criminal fugitivo que se haya refugiado en alguna de tales Colonias ó posesiones extranjeras se hará al Gobernador ó principal autoridad de tal Colonia ó posesion por el principal Ajente Consular de la República de Guatemala en dicha Colonia ó posesion.

" Podrá darse curso á tales peticiones, sujetándose siempre lo más aproximadamente posible á lo estipulado en este Tratado, por dicho Gobernador ó principal autoridad, quien, sin embargo, estará en libertad de conceder la entrega ó referir el asunto á su Gobierno.

" Su Majestad Británica quedará, sin embargo, en libertad de hacer arreglos especiales en las Colonias Británicas y posesiones extranjeras para la entrega de los Guatemaltecos criminales que puedan refugiarse dentro de tales Colonias y posesiones extranjeras, observando, lo más que se pueda, las estipulaciones del presente Tratado.

" La demanda para la entrega de un criminal fugitivo de alguna Colonia ó posesion extranjera de Su Majestad Británica estará sujeta á las reglas establecidas en los Artículos precedentes del presente Tratado.

" Artículo XVIII.

" El presente Tratado empezará á ejecutarse diez dias despues de su publicacion, de conformidad con

prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties, but shall remain in force for six months after notice has been given for its termination.

"The treaty, after receiving the approval of the Congress of Guatemala, shall be ratified, and the ratifications shall be exchanged at London as soon as possible.

"In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

"Done at Guatemala, the fourth day of July, in the year of our Lord one thousand eight hundred and eighty-five.

"(L.S.) J. P. Harriess-Gastrell.

"(L.S.) M. J. Dardon."

las formas prescritas por las leyes de las Altas Partes Contratantes. Puede denunciarse por cualquiera de las Altas Partes Contratantes; pero permanecerá vigente por seis meses despues de haberse dado aviso para su terminacion.

"Este Tratado, despues de haber sido aprobado por el Congreso de Guatemala será ratificado, y las ratificaciones serán canjeadas en Lóndres tan pronto que sea posible.

"En fé de lo cual los respectivos Plenipotenciarios lo firman y sellan con el sello de sus armas.

"Hecho en Guatemala, el cuatro de Julio en el año de mil ochocientos ochenta y cinco.

"(L.S.) J. P. Harriess-Gastrell.

"(L.S.) M. J. Dardon."

And whereas the ratifications of the said Treaty were exchanged at Guatemala on the Sixth day of September, One thousand eight hundred and eighty-six;

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and in virtue of the authority committed to her by the said recited Acts, doth order, and it is hereby ordered, that from and after the thirteenth day of December, One thousand eight hundred and eighty-six, the said Acts shall apply in the case of Guatemala, and of the said Treaty with the Republic of Guatemala;

Provided always, and it is hereby further ordered that the operation of the said Acts shall be suspended within the Dominion of Canada so far as relates to the Republic of Guatemala and to the said Treaty and so long as the provisions of the Canadian Acts aforesaid* continue in force, and no longer.

C. L. Peel.

(m) Hayti.

At the Court at Osborne House, Isle of Wight, the 5th day of February, 1876.

PRESENT:

The Queen's Most Excellent Majesty in Council.

Whereas * * * [*Here follows the first recital to the Order of May 16, 1878, relating to France, printed at p. 86 above.*]

And whereas a Treaty was concluded on the seventh day of December, one thousand eight hundred and seventy-four,

* 40 Vict. c. 25; 45 Vict. c. 20; now repealed and consolidated as the Revised Statutes of Canada, c. 142.

between Her Majesty and the President of the Republic of Hayti, for the Mutual Extradition of Fugitive Criminals, which Treaty is in the terms following :—

“ Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and his Excellency the President of the Republic of Hayti, having judged it expedient, with a view to the better administration of justice, and to the prevention of crime within the two countries and their jurisdictions, that persons charged with or convicted of the crimes herein-after enumerated, and being fugitives from justice, should, under certain circumstances be reciprocally delivered up ;

“ Her Britannic Majesty and the President of Hayti have named as their Plenipotentiaries to conclude a Treaty for this purpose, that is to say :

“ Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Spenser St. John, Esq., Minister - Resident and Consul-General of Her Britannic Majesty in the Republic of Hayti and Her Chargé d’Affaires in the Dominican Republic ;

“ And his Excellency the President of the Republic of Hayti, M. Surville Toussaint, ex-Senator ;

“ Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles :—

“ Article I.

“ The High Contracting Parties engage to deliver up to each other those persons who, being accused or convicted of a crime committed in the territory of the one Party, shall be found within the territory of the other Party, under the circumstances and conditions stated in the present Treaty.

“ Article II.

“ The crimes for which the extradition is to be granted, are the following :—

“ 1. Murder, or attempt to murder.

“ 2. Manslaughter.

“ 3. Counterfeiting or altering money, uttering or bringing into

“ Sa Majesté la Reine du Royaume Uni de la Grande Bretagne et d’Irlande, et Son Excellence le Président de la République d’Haïti, ayant jugé convenable, en vue d’une meilleure administration de la justice, et pour prévenir les crimes dans les deux pays et leurs juridictions, que les individus accusés ou convaincus des crimes ci-après énumérés, et qui se seraient soustraits par la fuite aux poursuites de la justice, fussent, dans certaines circonstances, réciproquement extradés ;

“ Sa Majesté Britannique et le Président d’Haïti ont nommé pour leur Plénipotentiaires à l’effet de conclure dans ce but un Traité, savoir :

“ Sa Majesté le Reine du Royaume Uni de la Grande Bretagne et d’Irlande, Spenser St. John, Ecuier, Ministre - Résident et Consul-Général de Sa Majesté Britannique en la République d’Haïti et son Chargé d’Affaires près la République Dominicaine ;

“ Et Son Excellence le Président de la République d’Haïti, M. Surville Toussaint, ex-Sénateur ;

“ Lesquels, après s’être communiqués leurs pleins pouvoirs respectifs, trouvés en bonne et due forme ont arrêté et conclu les Articles suivants :—

“ Article I.

“ Les Hautes Parties Contractantes s’engagent à livrer, l’une à l’autre, toute personne qui, étant prévenue, accusée, ou convaincue d’un crime commis sur le territoire de l’une des Parties, sera trouvée sur le territoire de l’autre Partie, et ce dans les circonstances et aux conditions spécifiées au présent Traité.

“ Article II.

“ Les crimes pour lesquels l’extradition doit être accordée sont les suivants :—

“ 1. Meurtre, ou tentative de meurtre.

“ 2. Homicide.

“ 3. Contrefaçon ou altération des monnaies, émission ou mise en

circulation counterfeit or altered money.

"4. Forgery, or counterfeiting, or altering, or uttering what is forged or counterfeited or altered.

"5. Embezzlement or larceny.

"6. Obtaining money or goods by false pretences.

"7. Malicious injury to property, if the offence be indictable.

"8. Crimes against bankruptcy law.

"9. Fraud by a bailee, banker, agent, factor, trustee, or director, or member or public officer of any company, made criminal by any law for the time being in force.

"10. Perjury or subornation of perjury.

"11. Rape.

"12. Abduction.

"13. Child-stealing.

"14. False imprisonment.

"15. Burglary or housebreaking.

"16. Arson.

"17. Robbery with violence.

"18. Threats, by letter or otherwise, with intent to extort.

"19. Piracy by law of nations.

"20. Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

"21. Assaults on board a ship on the high seas with intent to destroy life, or to do grievous bodily harm.

"22. Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas, against the authority of the master.

"The extradition is also to take place for participation in any of the aforesaid crimes, provided such participation be punishable by the laws of both the Contracting Parties.

" Article III.

"No Haytian shall be delivered up by the Government of Hayti to the Government of the United Kingdom, and no subject of the United Kingdom shall be delivered up by the Government thereof to the Government of Hayti.

" Article IV.

"The extradition shall not take place if the person claimed on the

circulation de la fausse monnaie ou de la monnaie altérée.

"4. Le faux, la contrefaçon, l'altération ou l'émission de ce qui est faussé, contrefait, ou altéré.

"5. Détournement ou larcin.

"6. Obtention d'argent ou de marchandises à l'aide de tromperie.

"7. Dommages faits aux propriétés avec une intention criminelle.

"8. Crimes contre la loi sur la banqueroute.

"9. Fraude par un dépositaire, banquier, un agent, un courtier de commerce; par un curateur, un directeur, un membre ou un officier public d'une compagnie quelconque, déclaré crime par le code pénal en vigueur.

"10. Parjure ou subornation de témoins.

"11. Viol.

"12. Rapt.

"13. Vol d'enfant.

"14. Détention illégale.

"15. Vol avec effraction.

"16. Incendie.

"17. Vol avec violence.

"18. Menace par lettre, ou par tout autre moyen, avec l'intention d'extorquer.

"19. Piraterie définie par le droit international.

"20. Baraterie ou tentative de baraterie.

"21. Attaque à bord d'un navire sur la haute mer avec intention de tuer ou de blesser quelqu'un.

"22. Révolte ou complot par deux ou plusieurs personnes à bord d'un navire sur la haute mer contre l'autorité du capitaine. L'extradition doit être aussi accordée contre tout complice des crimes ci-dessus énumérés, lorsque la complicité est punie par les lois des deux Parties Contractantes.

" Article III.

"Aucun Haïtien ne sera livré par le Gouvernement d'Haïti au Gouvernement du Royaume Uni, et aucun sujet du Royaume Uni ne sera livré par ce dernier au Gouvernement d'Haïti.

" Article IV.

"L'extradition n'aura pas lieu si la personne réclamée de la part du

part of the Government of the United Kingdom, or the person claimed on the part of the Government of the Republic of Hayti, has already been tried and discharged, or punished, or is still under trial in Hayti, or in the United Kingdom respectively, for the crime for which his extradition is demanded.

"If the person claimed on the part of the Government of the United Kingdom, or if the person claimed on the part of the Government of the Republic of Hayti should be under examination for any other crime in Hayti or in the United Kingdom respectively, his extradition shall be deferred until the conclusion of the trial, and the full execution of any punishment awarded to him.

" Article V.

"The extradition shall not take place if, subsequently to the commission of the crime, or the institution of the penal prosecution, or the conviction thereon, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the State applied to.

" Article VI.

"A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove that the requisition for his surrender has, in fact, been made with a view to try or punish him for an offence of a political character.

" Article VII.

"A person surrendered can in no case be kept in prison, or be brought to trial in the State to which the surrender has been made, for any other crime or on account of any other matters than those for which the extradition shall have taken place.

"This stipulation does not apply to crimes committed after the extradition.

" Article VIII.

"The requisition for extradition shall be made through the

Gouvernement du Royaume Uni, ou la personne réclamée de la part du Gouvernement de la République d'Haïti, a déjà été jugée et acquittée ou condamnée, ou si elle est encore en jugement, soit en Haïti soit dans le Royaume Uni respectivement, et ce pour le crime en raison duquel son extradition est demandée.

"Si la personne réclamée de la part du Gouvernement du Royaume Uni, ou si la personne réclamée de la part du Gouvernement de la République d'Haïti est sous le coup d'un interrogatoire judiciaire, soit en Haïti soit dans le Royaume Uni respectivement, pour tout autre crime que celui en raison duquel elle est réclamée, il sera différé à l'extradition jusqu'à ce que ce jugement soit prononcé, et, s'il y a condamnation, jusqu'à ce que la peine infligée soit entièrement subie.

" Article V.

"L'extradition n'a pas lieu si, postérieurement à la perpétration du crime, à l'ouverture de la poursuite judiciaire, ou au jugement prononcé, les lois de l'Etat auquel la demande d'extradition est adressée couvrent la personne réclamée des effets de la prescription.

" Article VI.

"Un criminel fugitif ne sera pas livré si l'offense en raison de laquelle son extradition est demandée est d'un caractère politique, ou s'il prouve que cette extradition n'a réellement été réclamée que dans le but de le juger ou de le punir pour une cause d'un caractère politique.

" Article VII.

"Une personne rendue ne peut, en aucun cas, être détenue ou jugée dans l'Etat auquel son extradition a été accordée pour un autre crime, ou pour d'autres causes, que ceux qui ont motivé cette extradition.

"Cette stipulation ne s'applique pas aux crimes commis postérieurement à l'extradition.

" Article VIII.

"Toute demande d'extradition sera faite par l'entremise des Agents

Diplomatic Agents of the High Contracting Parties respectively.

"The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition, and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there.

"If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent Court of the State that makes the requisition for extradition.

"A requisition for extradition cannot be founded on sentences passed in *contumaciam*.

" Article IX.

"If the requisition for extradition be in accordance with the foregoing stipulations, the competent authorities of the State applied to shall proceed to the arrest of the fugitive.

"The prisoner is then to be brought before a competent magistrate, who is to examine him, and to conduct the preliminary investigation of the case, just as if the apprehension had taken place for a crime committed in the same country.

" Article X.

"The extradition shall not take place before the expiration of fifteen days from the apprehension, and then only if the evidence be found sufficient, according to the laws of the State applied to, either to justify the committal of the prisoner for trial, in case the crime had been committed in the territory of the said State, or to prove that the prisoner is the identical person convicted by the Courts of the State which makes the requisition.

" Article XI.

"In the examinations which they have to make in accordance with the foregoing stipulations, the

Diplomatiques des deux Hautes Parties Contractantes respectivement.

"La requisition de l'extradition d'une personne accusée doit être accompagnée d'un ordre d'arrestation émané de l'autorité compétente de l'Etat que fait la demande d'extradition, et par les preuves qui établissent que, si la personne réclamée avait commis le même crime dont elle est prévenue dans l'Etat où elle est réfugiée, son arrestation serait ordonnée en vertu des lois du dit Etat.

"Si la requisition porte sur une personne déjà condamnée, elle doit être accompagnée du jugement rendu contre la dite personne par un Tribunal compétent de l'Etat qui réclame l'extradition.

"Aucune demande d'extradition ne peut être basée sur les jugements rendus contre les personnes en état de contumace.

" Article IX.

"Si la requisition d'extradition est conforme aux stipulations énoncées ci-dessus, les autorités compétentes de l'Etat auquel elle est adressée procéderont à l'arrestation du fugitif.

"Alors le prisonnier est amené par devant un magistrat compétent, qui l'interroge et fait toutes les investigations qui auraient lieu si l'arrestation était faite en raison d'un crime commis dans le pays même où s'opère l'arrestation.

" Article X.

"L'extradition ne s'effectuera qu'après un délai de quinze jours à partir du jour de l'arrestation, et alors seulement si les preuves relevées par l'instruction préliminaire sont suffisantes pour justifier la détention du prisonnier, et le placer sous le coup des lois du pays où il est arrêté dans le cas où le crime dont il est prévenu y aurait été commis. Il faudra aussi que son identité soit prouvée, et qu'elle soit bien reconnue être celle qui est condamnée par les Tribunaux de l'Etat qui demande son extradition.

" Article XI.

"Dans les interrogatoires qu'elles ont à faire conformément aux stipulations ci-dessus les autorités de

authorities of the State applied to shall admit as entirely valid evidence the sworn depositions or statements of witnesses taken in the other State, or copies thereof, and likewise the warrants and sentences issued therein, provided such documents are signed or certified by a Judge, magistrate, or officer of such State, and are authenticated by the oath of some witnesses, or by being sealed with the official seal of the Minister of Justice or some other Minister of State.

“ Article XII.

“ If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, he shall be set at liberty.

“ Article XIII.

“ All articles seized, which were in the possession of the person to be surrendered at the time of his apprehension, shall, if the competent authority of the State applied to for the extradition has ordered the delivery thereof, be given up when the extradition takes place, and the said delivery shall extend not merely to the stolen articles, but to everything which may serve as a proof of the crime.

“ Article XIV.

“ The High Contracting Parties renounce any claim for the reimbursement of the expenses incurred by them in the arrest and maintenance of the person to be surrendered, and his conveyance till placed on board ship: they reciprocally agree to bear such expenses themselves.

“ Article XV.

“ The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of Her Britannic Majesty.

“ The requisition for the surrender of a fugitive criminal who has taken refuge in any of such Colonies or foreign possessions shall

l'Etat auquel une demande d'extradition est faite admettront comme preuves entièrement valides toutes les dépositions ou déclarations de témoins assermentés provenant de l'autre Etat, ou copies de ces dernières, ainsi que tous les ordres et jugements qui auraient été publiés sur l'affaire relative à la personne réclamée, pourvu que tous les documents dont il est fait mention ci-dessus seront certifiés et signés par un Juge, un magistrat, ou un officier compétent de l'Etat qui fait la demande d'extradition. Ils seront déclarés authentiqués sous la foi du serment prêté par des témoins, ou scellés du sceau officiel du Ministre de la Justice ou de tout autre Ministre d'Etat.

“ Article XII.

“ Si les preuves requises pour l'admission d'une demande d'extradition ne sont pas établies deux mois après la date du jour de l'arrestation du fugitif réclamé, ce dernier sera mis en liberté.

“ Article XIII.

“ Lorsqu'une personne devra être rendue, tous les objets qui auraient été trouvés en sa possession, et qui auraient été saisis au moment de son arrestation, seront remis à la partie qui fait la demande d'extradition si l'autorité qui l'accorde en a décidé ainsi, et dans ce cas la remise comprendra nonseulement les objets volés, mais encore tout objet qui pourra servir à établir la conviction du criminel.

“ Article XIV.

“ Les Hautes Parties Contractantes renoncent réciproquement à toute réclamation ayant pour but le remboursement des frais qu'elles feront pour l'arrestation et la détention de toute personne rendue jusqu'à la mise à bord d'un navire: elles subiront réciproquement toutes les dépenses de cette nature.

“ Article XV.

“ Les stipulations du présent Traité sont applicables aux Colonies et possessions étrangères de Sa Majesté Britannique.

“ Toute demande d'extradition relative à un criminel réfugié dans une des Colonies ou possessions étrangères dont il s'agit sera

be made to the Governor or chief authority of such Colony or possession by the chief Consular Officer of Hayti in such Colony or possession.

"Such requisitions may be disposed of, subject always, as nearly as may be, to the provisions of this Treaty, by the said Government or chief authority, who, however, shall be at liberty either to grant the surrender, or to refer the matter to his Government.

"Her Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of Haytian criminals, who may take refuge within such Colonies and foreign possessions, on the basis, as nearly as may be, of the provisions of the present Treaty.

"The requisition for the surrender of a fugitive criminal from any Colony or foreign possession of Her Britannic Majesty shall be governed by the rules laid down in the preceding Articles of the present Treaty.

' Article XVI.

"The present Treaty shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties, but shall remain in force for six months after notice has been given for its termination.

"The President of the Republic of Hayti engages to apply to the Senate for the necessary authorization to give effect to the present Treaty, immediately after its meeting.

"The present Treaty shall be ratified, and the ratifications shall be exchanged as soon as possible.

"In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

"Done at Port au Prince, the seventh day of December, in the year of our Lord one thousand eight hundred and seventy-four.

adressée au Gouverneur ou à la principale autorité de la dite Colonie ou possession par l'entremise du principal Officier Consulaire d'Haïti en la dite Colonie ou possession.

"Les réquisitions de la catégorie ci-dessus indiquée se feront toujours, autant que possible, conformément aux règles établies dans le présent Traité, par le Gouverneur ou par la principale autorité, qui sera libre toutefois d'accorder l'extradition ou d'en référer à son Gouvernement.

"Toutefois Sa Majesté Britannique sera libre de faire des arrangements spéciaux dans ses Colonies et possessions étrangères pour l'extradition des criminels Haïtiens, qui s'y réfugieront, et ces arrangements, autant que possible, auront pour base les règles établies par ce présent Traité.

"La réquisition de l'extradition d'un criminel fugitif d'une des Colonies ou possessions étrangères de Sa Majesté Britannique sera assujettie aux règles consignées dans les Articles précédents du présent Traité.

" Article XVI.

"Le présent Traité sera en vigueur dix jours après qu'il aura été publié conformément aux prescriptions des lois des Hautes Parties Contractantes. Il pourra prendre fin par la volonté de l'une ou de l'autre des Hautes Parties Contractantes, mais dans ce dernier cas il continuera à rester en vigueur pendant six mois à partir du jour où l'une ou l'autre aura déclaré vouloir en faire cesser les effets.

"Le Président de la République d'Haïti s'engage à demander au Sénat, immédiatement après son ouverture, l'autorisation nécessaire pour faire exécuter le dit Traité.

"Le présent Traité sera ratifié, et les ratifications en seront échangées le plus tôt que faire se pourra.

"En foi de quoi les Plénipotentiaires respectifs l'ont signé, et y ont apposé le cachet de leurs armes.

"Fait à Port au Prince, le sept Décembre, l'an de grâce mil huit cents soixante-quatorze."

" (L.S.) *Spenser St. John.*
" (L.S.) *Surville Toussaint.*"

And whereas the ratifications of the said Treaty were exchanged at Port au Prince on the second day of September last :

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and in virtue of the authority committed to Her by the said recited Acts, doth order, and it is hereby ordered, that from and after the twenty-first day of February, one thousand eight hundred and seventy-six, the said Acts shall apply in the case of the said Treaty with the President of the Republic of Hayti.

C. L. Peel.

(n) Italy.

At the Court at Windsor, the 24th day of March, 1873.

PRESENT :

The Queen's Most Excellent Majesty in Council.

Whereas * * * [*Here follows the first recital to the Order of March 17, 1874, relating to Austria-Hungary, printed at p. 11 above.*]

And whereas a Treaty was concluded on the fifth day of February last between Her Majesty and the King of Italy for the Mutual Extradition of Fugitive Criminals, which Treaty is in the terms following :—

“ Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Majesty the King of Italy, having judged it expedient, with a view to the better administration of justice, and to the prevention of crime within their respective territories, that persons charged with or convicted of the crimes hereinafter enumerated, and being fugitives from justice, should under certain circumstances, be reciprocally delivered up ; Their said Majesties have named as their Plenipotentiaries to conclude a Treaty for this purpose, that is to say :

“ Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Sir Augustus Berkeley Paget, Her Majesty's Envoy Extraordinary and Minister Plenipotentiary to His Majesty the King of Italy ;

“ And His Majesty the King of Italy, the Noble Emilio Visconti Venosta, Deputy in the Parliament,

“ Sua Maestà la Regina del Regno Unito dello Gran Bretagna ed Irlanda, e Sua Maestà il Re d'Italia, avendo giudicato conveniente per la migliore amministrazione della giustizia e per prevenire i reati nei loro rispettivi territori, che le persone imputate o condannate per i reati qui appresso enumerati, e che cerchino sottrarsi alla giustizia, sieno, in certi casi, reciprocamente consegnate ; le Loro prefate Maestà hanno nominato come Loro Plenipotenziari per conchiudere un Trattato a questo scopo, cioè :

“ Sua Maestà la Regina del Regno Unito della Gran Bretagna ed Irlanda, Sir Augustus Berkeley Paget, Suo Inviato Straordinario e Ministro Plenipotenziario presso Sua Maestà il Re d'Italia ;

“ E Sua Maestà il Re d'Italia, il Nobile Emilio Visconti Venosta, Deputato al Parlamento, Suo

and Minister Secretary of State for Foreign Affairs ;

" Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles :—

" Article I.

" The High Contracting Parties engage to deliver up to each other reciprocally any persons who, being accused or convicted of any of the crimes specified in the Article following, committed within the territory of either of the said Parties, shall be found within the territory of the other, in the manner and under the conditions determined in the present Treaty.

" Article II.

" The crimes for which the extradition is agreed to are the following :—

" 1. Murder, or attempt or conspiracy to murder, comprising the crimes designated by the Italian Penal Code as the association of criminals for the commission of such offences.

" 2. Manslaughter, comprising the crimes designated by the Italian Penal Code as wounds and blows wilfully inflicted which cause death.

" 3. Counterfeiting or altering money, and uttering or bringing into circulation counterfeit or altered money.

" 4. Forgery, counterfeiting or altering, or uttering of the thing or document that is forged or counterfeited or altered.

" 5. Larceny, or unlawful abstraction or appropriation.

" 6. Obtaining money or goods by false pretences (cheating or fraud).

" 7. Fraudulent bankruptcy.

" 8. Fraud, abstraction, or unlawful appropriation, by a bailee, banker, agent, factor, trustee, director, or member, or officer of any public or private company or house of commerce.

" 9. Rape.

" 10. Abduction.

" 11. Child stealing.

" 12. Burglary and housebreaking, comprising the crimes designated by the Italian Penal Code as

Ministro Segretario di Stato per gli Affari Esteri.

" I quali, dopo essersi comunicati i loro rispettivi pieni poteri, trovati in buona e debita forma, hanno convenuto e conchiuso gli Articoli seguenti :—

" Articolo I.

" Le Alti Parti Contraenti si obbligano di consegnarsi reciprocamente coloro i quali essendo imputati o condannati per uno dei reati indicati nel seguente Articolo, commesso nel territorio di una di esse Parti, saranno trovati nel territorio dell'altra; nei modi e con le condizioni stabilite nel presente Trattato.

" Articolo II.

" I reati pei quali è convenuta la estradizione sono i seguenti :—

" 1. Assassínio, o tentativo o cospirazione per assassinare, comprendente i reati designati da Codice Penale Italiano siccome associazione di malfattori per la perpetrazione di tali reati.

" 2. Omicidio volontario, comprendente i reati indicati dal Codice Penale Italiano colla designazione di percosse e ferite volontarie che producano la morte.

" 3. Contraffazione o alterazione di moneta, e spaccio od emissione di moneta contraffatta o alterata.

" 4. Falsificazione, contraffazione o alterazione, o emissione della cosa o documento falso, o contraffatto o alterato.

" 5. Furto od indebita sottrazione o appropriazione.

" 6. L'ottenuta consegna di danaro o di oggetti col mezzo di raggio (truffa o frode).

" 7. Bancarotta dolosa.

" 8. Frode, sottrazione o appropriazione indebita, commessa da un depositario, banchiere, agente, amministratore, curatore (trustee), direttore o membro o ufficiale di qualsiasi pubblica o privata compagnia o casa di commercio.

" 9. Ratto (rape).

" 10. Rapimento di persona (abduction).

" 11. Sottrazione di fanciulli.

" 12. *Burglary* e *house-breaking*, comprendendosi sotto queste designazioni secondo la nomenclatura del

entry by night, or even by day, with fracture or escalade, or by means of false key or other instrument, into the dwelling of another person with intent to commit a crime.

" 13. Arson.

" 14. Robbery with violence.

" 15. Threats by letter or otherwise, with intent to extort money or anything else.

" 16. Piracy, according to international law, when the pirate, a subject of neither of the High Contracting Parties, has committed depredations on the coasts, or on the high seas, to the injury of citizens of the requiring party, or when, being a citizen of the requiring party, and having committed acts of piracy, to the injury of a third State, he may be within the territory of the other party, without being subjected to trial.

" 17. Sinking or destroying, or attempting to sink or destroy, a vessel at sea.

" 18. Assaults on board a ship on the high seas with intent to kill or do grievous bodily harm.

" 19. Revolt or conspiracy by two or more persons on board a ship on the high seas, against the authority of the master.

" Accomplices before the fact in any of these crimes shall, moreover, also be delivered up, provided their complicity be punishable by the laws of both the Contracting Parties.

" Article III.

" The Italian Government shall not deliver up any Italian to the United Kingdom; and no subject of the United Kingdom shall be delivered up by it to the Italian Government.

" Article IV.

" In any case where an individual convicted or accused shall have obtained naturalization in either of the two Contracting States after the commission of the crime, such naturalization shall not prevent the search for, arrest, and delivery of the individual. The extradition may, however, be refused if five years have elapsed from the concession of naturalization, and the individual has been

Codice Penal Italiano, l'atto di chi, di notte tempo o anche di giorno, s'introduce mediante rottura o scallata o per mezzo di chiave falsa od altro strumento, nell'altrui abitazione per commettere un reato.

" 13. Incendio volontario.

" 14. Depravazione con violenza.

" 15. Minacce per lettera o per altro modo per estorcere danaro o altra cosa.

" 16. Pirateria, secondo il diritto internazionale, quando il pirata, straniero alle due Alte Parti Contraenti, abbia commesso delle depredazioni sulle coste o in alto mare a danno dei cittadini della parte richiedente, ovvero quando, essendo cittadino della parte richiedente ed avendo commesso atti di pirateria in danno di un terzo Stato, egli si trovi nel territorio dell'altra parte senza esservi sottoposto a giudizio.

" 17. Sommersione o distruzione, o tentativo di sommersione a distruzione di nave in mare.

" 18. Assalto a bordo di una nave in alto mare col fine di uccidere o di produrre gravi danni corporali.

" 19. Rivolta, o cospirazione di due o più persone a bordo di una nave in alto mare contro l'autorità del capitano.

" Sarà pure accordata l'estradizione di coloro i quali avranno partecipato prima del fatto ad alcuno di questi reati (complici), purchè tale partecipazione sia punita dalle leggi di ambe due le Parti Contraenti.

" Articolo III.

" Dal Governo Italiano non sarà consegnato alcun Italiano al Regno Unito, e verun suddito del Regno Unito sarà da esso consegnato al Governo Italiano.

" Articolo IV.

" La naturalità ottenuta in uno dei due Stati Contraenti, dall'imputato o condannato, dopo il commesso reato, non impedirà la ricerca, l'arresto e la consegna dello stesso. Può tuttavia essere riuscata la estradizione, ove siano trascorsi cinque anni dalla concessa naturalità, e l'individuo abbia, dalla concessione di questa, tenuto il suo domicilio nello Stato richiesto.

domiciled, from the concession thereof, in the State to which the application is made.

" Article V.

" No accused or convicted person shall be given up if the offence for which he is claimed is political; or if he proves that the demand for his surrender has been made with the intention of trying and punishing him for a political offence.

" Article VI.

" The extradition shall not be granted if, since the commission of the crime, the commencement of proceedings, or the conviction, such a length of time has elapsed as to bar the penal prosecution or the punishment, according to the laws of the State to which application is made.

" Article VII.

" The accused or convicted person who has been given up shall not, until he has been liberated, or had an opportunity of returning to the country in which he was living, be imprisoned or subjected to trial in the State to which he has been given up, for any crime or on any charge other than that on account of which the extradition took place.

" This does not apply to offences committed after the extradition.

" Article VIII.

" If the individual claimed is under prosecution or in custody for a crime committed in the country where he has taken refuge, his surrender may be deferred until the law has taken its course.

" In case he should be proceeded against or detained in such country on account of obligations contracted with private individuals, or any other civil claim, his surrender shall nevertheless take place, the injured party retaining his right to prosecute his claims against him before the competent authority.

" Article IX.

" The requisitions for extradition shall be made, respectively, by means of the Diplomatic Agents of the High Contracting Parties.

" The demand for the extradition of an accused person must be

" Articolo V.

" Non sarà consegnato un imputato o condannato, se il reato pel quale egli è domandato sia politico; ovvero se egli prova che la domanda della sua consegna sia stata fatta con l'intendimento di giudicarlo e punirlo per un reato politico.

Articolo VI.

" Non sarà accordata la estradizione, se dal commesso reato, dall' iniziato procedimento, o dalla condanna, sia decorso tanto tempo che l'azione penale o la pena secondo la legge dello Stato richiesto sia estinta.

" Articolo VII.

" L'imputato o condannato consegnato, finchè non sia stato liberato, o non abbia avuto l'opportunità di tornare nel paese dove dimorava, non potrà essere carcerato, o sotto posto a giudizio nello Stato, a cui fu consegnato, per reato o per altra imputazione diversa da quella per la quale avvenne la estradizione.

" Ciò non si applica ai reati commessi dopo l'estradizione.

" Articolo VIII.

" Se l'individuo domandato è sotto processo o carcerato per un reato commesso nel paese dove si è rifugiato, la sua estradizione può essere differita finchè la legge abbia avuto il suo corso.

" In caso si debba procedere contro di lui o sia egli detenuto nello stesso paese per obbligazioni contratte con privati o per ogni altra azione civile, la sua consegna, ciò non ostante, avverrà, salvo alla parte di far valere i suoi diritti contro di lui innanzi all'autorità competente.

" Articolo IX.

" Le domande di estradizione saranno fatte rispettivamente per mezzo degli Agenti Diplomatici delle Alte Parti Contraenti.

" La domanda per la estradizione di un imputato dev' essere accom-

accompanied by a warrant of arrest issued by the competent authority of the State applying for the extradition, and by such proof as, according to the law of the place where the fugitive is found, would justify his arrest if the crime had been committed there.

"If the requisition relates to a person convicted, it must be accompanied by the sentence of condemnation of the competent Court of the State applying for the extradition.

"The demand for extradition must not be founded upon a sentence *in contumacia*.

" Article X.

"If the demand for extradition be made according to the foregoing stipulations, the competent authorities of the State, to which the requisition is made, shall proceed to arrest the fugitive.

"The prisoner shall be taken before the competent Magistrate, who shall examine him, and make the preliminary investigations of the affair, in the same manner as if the arrest had taken place for a crime committed in the same country.

" Article XI.

"In the examinations to be made in conformity with the preceding stipulations, the authorities of the State to which the demand is addressed shall admit, as entirely valid evidence, the documents and depositions taken on oath in the other State, or copies of them, and likewise the warrants and sentences issued there; provided that such documents are signed or certified by a Judge, Magistrate, or officer of such State, and are authenticated by the oath of some witness, or stamped with the official seal of the Department of Justice or some other Department of State.

" Article XII.

"If, within two months from the arrest of the accused, sufficient evidence be not produced for his extradition he shall be liberated.

" Article XIII.

"The extradition shall not take place until the expiration of fifteen days after the arrest, and then only if the evidence has been found

pagnata da un mandato di cattura, rilasciato dalla competente autorità dello Stato che richiede la estradizione, e con tale prova che, secondo la legge del luogo dove il fuggitivo è trovato giustificerebbe il suo arresto, se il reato fosse stato quivi commesso.

"Se la domanda riguarda un condannato, dev'essere accompagnata dalla sentenza di condanna della Corte competente dello Stato che fa la domanda di estradizione.

"La domanda di estradizione non può fondarsi sopra una sentenza in contumacia.

" Articolo X.

"Se la domanda di estradizione è fatta secondo gli ansidetti parti, le autorità competenti dello Stato richiesto procederanno alla cattura del fuggitivo.

"Il catturato sarà condotto innanzi al Magistrate competente, il quale lo interrogherà, e farà le preliminari indagini sul fatto nel modo stesso che se la cattura fosse avvenuta per un reato commesso in quel paese.

" Articolo XI.

"Le autorità dello Stato richiesto, negli esami che debbono fare, giusta le precedenti stipulazioni, ammetteranno, come prova interamente valida, i documenti e le deposizioni testimoniali raccolte con giuramento nell'altro Stato, e copie di esse, e similmente i mandati e le sentenze ivi emanate, purchè tali documenti siano firmati o certificati da un giudice o Magistrato o Ufficiale dello Stato medesimo, e siano autenticati col giuramento di qualche testimone, o contrassegnati col sigillo ufficiale del Ministero di Giustizia, o di qualche altro Ministero di Stato.

" Articolo XII.

"Se nel termine di due mesi dalla data della cattura del imputato, non sarà esibita sufficiente prova per la estradizione, egli sarà liberato.

" Articolo XIII.

"Non sarà eseguita la estradizione prima che siano decorati quindici giorni dal dì della cattura, e solamente quando la prova sia

sufficient, according to the laws of the State to which the demand is addressed, to justify the committal of the prisoner for trial in case the crime had been committed in the territory of that State; or to show that the prisoner is the identical person condemned by the Tribunals of the State which demands him.

“ Article XIV.

“ If the prisoner be not given up and taken away within two months from his apprehension or from the decision of the Court upon the demand for a writ of *habeas corpus* in the United Kingdom, he shall be set at liberty, unless sufficient cause be shown for the delay.

“ Article XV.

“ If the individual claimed by one of the two Contracting Parties, in conformity with the present Treaty, should be also claimed by another or by other States on account of crimes committed in their territories, his surrender shall, in preference, be granted, according to priority of demand, unless an agreement be made between the Governments which make the requisition, either on account of the gravity of the crimes committed, or for any other reason.

“ Article XVI.

“ Every article found in the possession of the prisoner at the time of his arrest shall be seized, in order to be delivered up with him. Such delivery shall not be limited to the property or articles obtained by the robbery or fraudulent bankruptcy, but shall include everything that may serve as evidence of the crime; and it shall take place even when the extradition, after having been ordered, cannot take effect either on account of the escape or the death of the delinquent.

“ Article XVII.

“ The High Contracting Parties renounce all claim for repayment of the expenses incurred for the arrest and maintenance of the person to be given up, and for his conveyance on board a ship; such expenses shall be borne by themselves respectively.

stata trovata sufficiente, secondo le leggi dello Stato richiesto, a giustificare il rinvio del detenuto al giudizio nel caso che il reato fosse stato commesso nel territorio del suddetto Stato, od a dimostrare che il catturato è l'identica persona condannata dai Tribunali dello Stato che la richiede.

“ Articolo XIV.

“ Se l'arrestato non sia consegnato e condotto via fra due mesi dall'arresto, o dalla decisione della Corte sopra la domanda di un'ordinanza di *habeas corpus* nel Regno Unito, sarà liberato, tranne il caso che sia sufficientemente dimostrata la cagione del ritardo.

“ Articolo XV.

“ Se l'individuo domandato da una delle due Parti Contraenti in conformità del presente Trattato, sia anche chiesto da un altro o da altri Stati, per reati commessi nei loro territori, la consegna di lui sarà di preferenza accordata secondo l'antiorità della domanda tranne che fra i Governi richiedenti non si sia stabilito un accordo o per riguardo alla gravità dei reati commessi o per qualunque altra ragione.

“ Articolo XVI.

“ Ogni oggetto di cui l'arrestato sarà trovato possessore al momento dell'arresto sarà sequestrato, per essere poi con lui consegnato. La consegna non si restringerà alle cose od oggetti provenienti dal furto o dalla bancarotta dolosa, ma comprenderà qualunque cosa che può servire di prova del reato, e sarà eseguita anche quando, dopo ordinata la estradizione, non potrà questa avere effetto, o per la fuga o per la morte del delinquente.

“ Articolo XVII.

“ Le Alte Parte Contraenti rinunziano ad ogni domanda per rimborso delle spese occorse per la cattura e sostentamento della persona da consegnare, e per la sua traduzione sino sul bordo di una nave; le quali spese rimarranno a rispettivo loro carico.

“ Article XVIII.

“ The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of the two High Contracting Parties.

“ The requisition for the surrender of a person accused or condemned, who has taken refuge in any such Colony or possession of either party, shall be made to the Governor or chief authority of such Colony or possession by the Chief Consular officer of the other residing in such Colony or possession; or, if the accused or condemned person has escaped from a Colony or foreign possession of the party on whose behalf the requisition is made, the requisition shall be made by the Governor or chief authority of such Colony or possession.

“ Such requisitions may be disposed of, in accordance, as far as possible, with the stipulations of this Treaty, by the respective Governors or chief authorities, who, however shall be at liberty either to grant the extradition or to refer the matter to their own Government.

“ Her Britannic Majesty shall nevertheless be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender to his Italian Majesty of criminals who may have taken refuge in such Colonies or possessions, always in conformity, so far as possible, with the provisions of the present Treaty.

“ Finally, it is agreed that this stipulation does not apply to the Island of Malta, the Ordinance of the Maltese Government of [May 3, 1863 (No. 1230)*] remaining in full force.

“ Article XIX.

“ The High Contracting Parties declare that the present stipulations apply as well to persons accused or convicted, whose crimes, on account of which the extradition is demanded, may have been committed previously, as to those whose crimes may be committed subsequently to the date of this Treaty.

“ Articolo XVIII.

“ Le disposizioni del presente Trattato si applicheranno alle colonie e possedimenti stranieri (*foreign possessions*) delle due Alto Parti Contraenti.

“ La domanda di estradizione per la consegna di un imputato o condannato, il quale sia fuggito in una della dette colonie o possedimenti di una delle due parti, sarà fatta al Governatore, o all' autorità suprema di detta colonia o possedimento, dal principale ufficiale Consolare dell' altra residente nella colonia o possedimento; o se l'imputato o il condannato sia fuggito da una colonia o possedimento straniero della parte nell'interesse della quale è fatta la domanda, essa sarà fatta dal Governatore o dall' autorità suprema di tale colonia o possedimento.

“ Su tali domande, potrà essere provveduto in conformità, per quanto è possibile, dei patti di questo Trattato dai rispettivi Governatori o dalle autorità supreme, le quali tuttavia avranno la facoltà o di accordare la estradizione o di riferirne al proprio Governo.

“ Sua Maestà Britannica non dimeno potrà dare speciali provvedimenti nelle Colonie Britanniche e possedimenti stranieri, per la consegna dei delinquenti rifugiati in dette colonie o possedimenti, a Sua Maestà Italiana, sempre in conformità, per quanto sia possibile, alle disposizioni del presente Trattato.

“ Resta infine convenuto che questo patto non si applica all' Isola di Malta, rimanendo in pieno vigore l'Ordinanza del Governo Maltese del [8 Maggio, 1863, No. 1230.*]

“ Articolo XIX.

“ Le Alte Parti Contraenti dichiarano che le presenti stipulazioni si applicano tanto agli imputati o condannati, il cui reato, pel quale è chiesta l'extradizione, sia stato commesso prima quanto a quelli che l'abbiano commesso posteriormente alla data di questo Trattato.

* By declaration dated May 7th, 1873 (published as a Parliamentary Paper [C.—789] LXXV. 657), an error in Art. XVIII. of the above Treaty was rectified by substituting the words “ the 21st of February, 1863,” and “ 21 Febbraio, 1863,” for the words italicised above.

" Article XX.

" The present Treaty shall come into operation ten days after its publication according to the forms prescribed by the laws of the High Contracting Parties.

" Either party may at any time put an end to this Treaty, which, however, shall remain in force for six months after the notice for its termination.

" This Treaty shall be ratified, and the ratifications shall be exchanged at Rome within six weeks, or sooner if possible.

" In witness whereof the respective Plenipotentiaries have signed in duplicate, in English and Italian, the present Treaty, and have affixed thereto their respective seals.

" Done at Rome, the 5th day of February, in the year of our Lord one thousand eight hundred and seventy-three.

" (L.S.) A. B. Paget.

" (L.S.) Visconti Venosta."

" Articolo XX.

" Il presente Trattato andrà in vigore dieci giorni dopo la sua pubblicazione, secondo le forme prescritte dalle leggi delle Alte Parti Contraenti.

" Ciascuna delle Alte Parti potrà in ogni tempo por fine a questo Trattato, il quale però rimarrà in vigore sei mesi dopo la denunzia.

" Questo Trattato sarà ratificato, e le ratificazioni saranno scambiate a Roma fra sei settimane a più sollecitamente se sarà possibile.

" In fede di che i rispettivi Plenipotenziali hanno firmato in doppio esemplare, in Inglese e in Italiano, il presente Trattato e vi hanno apposto il rispettivo sigillo.

" Fatto a Roma il giorno cinque di febbrajo, l'anno del Signore mille ottocento settantatré.

" (L.S.) Visconti Venosta.

" (L.S.) A. B. Paget."

And whereas the ratifications of the said Treaty were exchanged at Rome on the eighteenth day of March last :

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and in virtue of the authority committed to Her by the said recited Act, doth order, and it is hereby ordered, that from and after the eleventh day of April, one thousand eight hundred and seventy-three, the said Act shall apply in the case of the said Treaty with the King of Italy.

Edmund Harrison.

(o) Liberia.

1894. No. 114.

At the Court at Windsor, the 10th day of March, 1894.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.

Lord Privy Seal.

Earl of Kimberley.

Mr. Secretary Fowler.

Mr. Lefevre.

Mr. Bryce.

Whereas * * * [*Here follow the first three recitals to the Order relating to the Argentine Republic, printed at p. 1 above.*]

And whereas a Treaty was concluded on the 16th day of December, 1892, between Her Majesty and the President of the Republic of Liberia, for the mutual extradition of fugitive criminals, which Treaty is in the terms following :—

" Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Excellency the President of Liberia, having judged it expedient, with a view to the better administration of justice and to the prevention of crime within their respective territories, that persons charged with or convicted of the crimes hereinafter enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up; the said High Contracting Parties have named as their Plenipotentiaries to conclude a Treaty for this purpose, that is to say :—

" Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, the Right Honourable Archibald Philip, Earl of Rosebery, Knight of the Most Noble Order of the Garter, Her Majesty's Principal Secretary of State for Foreign Affairs; and

" His Excellency the President of Liberia, Henry Hayman, Esq., Consul-General of the Republic of Liberia in London ;

" Who, having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following articles :—

" ARTICLE I.

" The High Contracting Parties engage to deliver up to each other those persons who, being accused or convicted of a crime or offence committed in the territory of the one Party, shall be found within the territory of the other, under the circumstances and conditions stated in the present Treaty.

" ARTICLE II.

" The crimes or offences for which the extradition is to be granted are the following :—

- " 1. Murder, or attempt, or conspiracy to murder.
- " 2. Manslaughter.
- " 3. Assault occasioning actual bodily harm.
- " 4. Maliciously wounding or inflicting grievous bodily harm.
- " 5. Counterfeiting or altering money, or uttering counterfeit or altered money.
- " 6. Knowingly making any instrument, tool, or engine adapted and intended for counterfeiting coin.
- " 7. Forgery, counterfeiting, or altering or uttering what is forged or counterfeited or altered.
- " 8. Embezzlement or larceny.
- " 9. Malicious injury to property if the offence be indictable.
- " 10. Obtaining money, goods, or valuable securities by false pretences.
- " 11. Receiving money, valuable security, or other property, knowing the same to have been stolen, embezzled, or unlawfully obtained.
- " 12. Crimes against bankruptcy law.

- " 13. Fraud by a bailee, banker, agent, factor, trustee, or director or member or public officer of any company, made criminal by any law for the time being in force.
- " 14. Perjury, or subornation of perjury.
- " 15. Rape.
- " 16. Carnal knowledge, or any attempt to have carnal knowledge, of a girl under 16 years of age.
- " 17. Indecent assault.
- " 18. Administering drugs, or using instruments, with intent to procure the miscarriage of a woman.
- " 19. Abduction.
- " 20. Child stealing.
- " 21. Abandoning children, exposing or unlawfully detaining them.
- " 22. Kidnapping and false imprisonment.
- " 23. Burglary or housebreaking.
- " 24. Arson.
- " 25. Robbery with violence.
- " 26. Any malicious act done with intent to endanger the safety of any person in a railway train.
- " 27. Threats by letter or otherwise, with intent to extort.
- " 28. Piracy by law of nations.
- " 29. Sinking or destroying a vessel at sea, or attempting or conspiring to do so.
- " 30. Assaults on board a ship on the high seas, with intent to destroy life, or do grievous bodily harm.
- " 31. Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas, against the authority of the master.
- " 32. Dealing in slaves in such a manner as to constitute a criminal offence against the laws of both States.

" Extradition is also to be granted for participation in any of the aforesaid crimes, provided such participation be punishable by the laws of both the Contracting Parties.

" ARTICLE III.

" Either Government may, in its absolute discretion, refuse to deliver up its own subjects to the other Government.

" ARTICLE IV.

" The extradition shall not take place if the person claimed on the part of the British Government, or the person claimed on the part of the Liberian Government, has already been tried and discharged or punished, or is still under trial, within the territories of the two High Contracting Parties respectively, for the crime for which his extradition is demanded.

" If the person claimed on the part of the British Government, or if the person claimed on the part of the Liberian Government,

should be under examination, or is undergoing sentence under a conviction, for any other crime within the territories of the two High Contracting Parties respectively, his extradition shall be deferred until after he has been discharged, whether by acquittal, or on expiration of his sentence, or otherwise.

“ARTICLE V.

“The extradition shall not take place if, subsequently to the commission of the crime, or the institution of the penal prosecution, or the conviction thereon, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the State applied to.

“ARTICLE VI.

“A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character.

“ARTICLE VII.

“A person surrendered can in no case be kept in prison, or be brought to trial in the State to which the surrender has been made for any other crime or on account of any other matters than those for which the extradition shall have taken place, until he has been restored or had an opportunity of returning to the State by which he has been surrendered.

“This stipulation does not apply to crimes committed after the extradition.

“ARTICLE VIII.

“The requisition for extradition shall be made in the following manner :—

“Application on behalf of Her Britannic Majesty's Government for the surrender of a fugitive criminal in Liberia shall be made by Her Majesty's Consul at Monrovia.

“Application on behalf of the Liberian Government for the surrender of a fugitive criminal in the United Kingdom shall be made by the diplomatic representative of Liberia in London, or in the absence of such representative, by the Consul-General for Liberia in London.

“The requisition for the extradition of the accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition, and by such

evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there.

"If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent Court of the State that makes the requisition for extradition.

"A sentence passed in *contumaciam* is not to be deemed a conviction, but a person so sentenced may be dealt with as an accused person.

"ARTICLE IX.

"If the requisition for extradition be in accordance with the foregoing stipulations, the competent authorities of the State applied to shall proceed to the arrest of the fugitive.

"ARTICLE X.

"If the fugitive has been arrested in the British dominions he shall forthwith be brought before a competent magistrate, who is to examine him and to conduct the preliminary investigation of the case, just as if the apprehension had taken place for a crime committed in the British dominions.

"In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the British dominions shall admit as valid evidence the sworn depositions or the affirmations of witnesses taken in Liberia, or copies thereof, and likewise the warrants and sentences issued therein, and certificates of, or judicial documents stating the fact of, a conviction, provided the same are authenticated as follows :—

- "1. A warrant must purport to be signed by a judge, magistrate, or officer of Liberia.
- "2. Depositions or affirmations, or the copies thereof, must purport to be certified under the hand of a judge, magistrate, or officer of Liberia, to be the original depositions or affirmations, or to be the true copies thereof, as the case may require.
- "3. A certificate of or judicial document stating the fact of a conviction must purport to be certified by a judge, magistrate, or officer of Liberia.
- "4. In every case such warrant, deposition, affirmation, copy certificate, or judicial document must be authenticated either by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of Liberia; but any other mode of authentication for the time being permitted by the law in that part of the British dominions where the examination is taken may be substituted for the foregoing.

" ARTICLE XI.

" If the fugitive has been arrested in Liberia his surrender shall be granted if, upon examination by a competent authority, it appears that the documents furnished by the British Government contain sufficient *prima facie* evidence to justify the extradition.

" The authorities of Liberia shall admit as valid evidence records drawn up by the British authorities of the depositions of witnesses, or copies thereof, and records of conviction or other judicial documents, or copies thereof, provided that the said documents be signed or authenticated by an authority whose competence shall be certified by the seal of a Minister of State of Her Britannic Majesty.

" ARTICLE XII.

" The extradition shall not take place unless the evidence be found sufficient, according to the laws of the State applied to, either to justify the committal of the prisoners for trial, in case the crime has been committed in the territory of the said State, or to prove that the prisoner is the identical person convicted by the Courts of the State which makes the requisition, and that the crime of which he has been convicted is one in respect of which extradition could, at the time of such conviction, have been granted by the State applied to. The fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison to await his surrender.

" ARTICLE XIII.

" If the individual claimed by one of the two High Contracting Parties in pursuance of the present treaty should be also claimed by one or several other Powers, on account of other crimes or offences committed upon their respective territories, his extradition shall be granted to that State whose demand is earliest in date.

" ARTICLE XIV.

" If sufficient evidence for the extradition be not produced within three months from the date of the apprehension of the fugitive, or within such further time as the State applied to, or the proper tribunal thereof, shall direct, the fugitive shall be set at liberty.

" ARTICLE XV.

" All articles seized which were in the possession of the person to be surrendered, at the time of his apprehension, shall, if the competent authority of the State applied to for the extradition has ordered the delivery thereof, be given up when the extradition takes place, and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof of the crime.

"ARTICLE XVI.

"All expenses connected with extradition shall be borne by the demanding State.

"ARTICLE XVII.

"The stipulations of the present treaty shall be applicable to the colonies and foreign possessions of Her Britannic Majesty, so far as the laws for the time being in force in such colonies and foreign possessions respectively will allow.

"The requisition for the surrender of a fugitive criminal who has taken refuge in any of such colonies or foreign possessions may be made to the governor or chief authority of such colony or possession by any person authorised to act in such colony or possession as a consular officer of Liberia, or if there is no such consular officer in the colony, by the diplomatic representative of Liberia in London, or in his absence by the Liberian Consul-General.

"Such requisitions may be disposed of, subject always, as nearly as may be, and so far as the law of such colony or foreign possession will allow, to the provisions of this treaty, by the said governor or chief authority, who, however, shall be at liberty either to grant the surrender, or to refer the matter to his Government.

"Her Britannic Majesty shall, however, be at liberty to make special arrangements in the British colonies and foreign possessions for the surrender of criminals from Liberia who may take refuge within such colonies and foreign possessions, on the basis, as nearly as may be, and so far as the law of such colony or foreign possession will allow, of the provisions of the present treaty.

"Requisitions for the surrender of a fugitive criminal emanating from any colony or foreign possession of Her Britannic Majesty shall be governed by the rules laid down in the preceding articles of the present treaty.

"ARTICLE XVIII.

"The present treaty shall come into force ten days after its publication in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties at any time on giving to the other six months' notice of its intention to do so.

"The treaty shall be ratified, and the ratifications shall be exchanged at London as soon as possible.

"In witness whereof the respective plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

"Done at London, the 16th day of December, 1892.

"(L.S.) *Rosebery.*

"(L.S.) *H. Hayman.*"

And whereas the ratifications of the said treaty were exchanged at London on the 31st day of January, 1894 :

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and in virtue of the authority committed to Her by the said recited Acts, doth order, and it is hereby ordered, that from and after the 23rd day of March, 1894, the said Acts shall apply in the case of Liberia, and of the said treaty with the Republic of Liberia :

Provided always, and it is hereby further ordered, that the operation of the said Extradition Acts, 1870 * and 1873,† shall be suspended within the Dominion of Canada so far as relates to Liberia and to the said treaty, and so long as the provisions of the Canadian Act aforesaid of 1886 ‡ continue in force, and no longer.

C. L. Peel.

(p) **Luxemburg.**

At the Court at Windsor, the 2nd day of March, 1881.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.

Lord Steward.

Marquess of Huntly.

Mr. Bright.

Sir Arthur Hobhouse.

Whereas by the Extradition Acts of 1870 * and 1873 † it was amongst other things enacted, that where an arrangement has been made with any foreign State with respect to the surrender to such State of any fugitive criminals, Her Majesty may, by Order in Council, direct that the said Acts shall apply in the case of such foreign State; and that Her Majesty may, by the same or any subsequent Order, limit the operation of the Order,

* 33 & 34 Vict. c. 52.

† 36 & 37 Vict. c. 60.

‡ "The Extradition Act" (Revised Statutes of Canada, c. 142).

and restrict the same to fugitive criminals who are in or suspected of being in the part of Her Majesty's dominions specified in the Order, and render the operation thereof subject to such conditions, exceptions, and qualifications as may be deemed expedient :

And whereas a Treaty was concluded on the twenty-fourth day of November, one thousand eight hundred and eighty, between Her Majesty and the King of the Netherlands, Grand Duke of Luxemburg, for the Mutual Extradition of Fugitive Criminals, which Treaty is in the terms following :—

“ Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Majesty the King of the Netherlands, Grand Duke of Luxemburg, having judged it expedient, with a view to the better administration of justice and to the prevention of crime within the territories of Her Britannic Majesty and the Grand Duchy of Luxemburg, that persons charged with or convicted of the crimes hereinafter enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up, their said Majesties have named as their Plenipotentiaries to conclude a Treaty for this purpose, that is to say :

“ Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Honourable William Stuart, a Companion of the Most Honourable Order of the Bath, Her Majesty's Envoy Extraordinary and Minister Plenipotentiary to His Majesty the King of the Netherlands, as Grand Duke of Luxemburg ;

“ And His Majesty the King of the Netherlands, Grand Duke of Luxemburg, Baron Felix de Blochausen, Grand Cross of the Order of the Crown of Oak, Chevalier of the Second Class of the Order of the Golden Lion of the House of Nassau, &c., &c., his Minister of State, President of the Government of the Grand Duchy of Luxemburg ;

“ Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles :—

“ Article I.

“ Her Majesty the Queen of the United Kingdom of Great Britain and Ireland engages to deliver up, under the circumstances and on the

“ Sa Majesté la Reine du Royaume-Uni de la Grande Bretagne et d'Irlande, et Sa Majesté le Roi des Pays-Bas, Grand-Duc de Luxemburg, ayant jugé opportun, afin de mieux assurer l'administration de la justice et la répression des crimes sur les territoires de Sa Majesté Britannique et dans le Grand-Duché de Luxemburg, de se livrer réciproquement, dans certaines circonstances, les individus accusés ou condamnés du chef des crimes ci-après énumérés, et qui seraient en fuite, ont nommé, pour leurs Plénipotentiaires chargés de conclure un Traité à cet effet, savoir :

“ Sa Majesté la Reine du Royaume-Uni de la Grande Bretagne et d'Irlande, l'Honorable William Stuart, Compagnon du Très-Honorable Ordre du Bain, son Envoyé Extraordinaire et Ministre Plénipotentiaire près Sa Majesté le Roi des Pays-Bas en sa qualité de Grand-Duc de Luxemburg ; et

“ Sa Majesté le Roi des Pays-Bas, Grand-Duc de Luxemburg, M. le Baron Félix de Blochausen, Grand-Croix de l'Ordre de la Couronne de Chêne, Chevalier de Deuxième Classe de l'Ordre du Lion d'Or de la Maison de Nassau, &c. &c., son Ministre d'Etat, Président du Gouvernement du Grand-Duché de Luxemburg ;

“ Lesquels, après s'être communiqué leurs pleins pouvoirs respectifs, trouvés en bonne et due forme, sont convenus de Articles suivants :

“ Article I.

“ Sa Majesté la Reine du Royaume-Uni de la Grande Bretagne et d'Irlande s'engage à livrer, dans les circonstances et sous les con-

conditions stipulated in the present Treaty, all persons, and His Majesty the King of the Netherlands, Grand Duke of Luxemburg, so far as concerns the Grand Duchy of Luxemburg, engages to deliver up under the like circumstances and conditions all persons, excepting subjects of the Grand Duchy, who, having been charged with, or convicted by the Tribunals of one of the two High Contracting Parties of any of the crimes or offences enumerated in Article II committed in the territory of the one party, shall be found within the territory of the other.

“ Article II.

“ The crimes for which the extradition is to be granted are the following :—

“ 1. Murder (including assassination, parricide, infanticide, poisoning, or attempt to murder).

“ 2. Manlaughter.

“ 3. Administering drugs or using instruments with intent to procure the miscarriage of women.

“ 4. Rape.

“ 5. Aggravated or indecent assault. Carnal knowledge of a girl under the age of ten years; carnal knowledge of a girl above the age of ten years and under the age of twelve years; indecent assault upon any female or any attempt to have carnal knowledge of a girl under twelve years of age.

“ 6. Kidnapping and false imprisonment, child stealing, abandoning, exposing, or unlawfully detaining children.

“ 7. Abduction of minors.

“ 8. Bigamy.

“ 9. Wounding, or inflicting grievous bodily harm.

“ 10. Assaulting a magistrate or peace or public officer.

“ 11. Threats by letter or otherwise with intent to extort money or other things of value.

“ 12. Perjury or subornation of perjury.

“ 13. Arson.

ditions prévus par le présent Traité, tous les individus, et Sa Majesté le Roi des Pays-Bas, Grand-Duc de Luxembourg pour ce qui concerne le Grand-Duché de Luxembourg, s'engage à livrer, dans les mêmes circonstances, et sous les mêmes conditions, tous les individus, à l'exception des sujets du Grand-Duché, lesquels, ayant été accusés ou condamnés par les Tribunaux d'une des Hautes Parties Contractantes, du chef des crimes ou délits énumérés dans l'Article II, commis sur le territoire de l'une des Parties, seront trouvés sur le territoire de l'autre.

“ Article II.

“ Les crimes pour lesquels l'extradition devra être accordée sont les suivants :—

“ 1. Meurtre (y compris l'assassinat, le parricide, l'infanticide, l'empoisonnement, ou tentative de meurtre).

“ 2. Homicide sans préméditation ou guetapens.

“ 3. Administration de substances ou emploi d'instruments dans l'intention de provoquer l'avortement.

“ 4. Viol.

“ 5. Attentat à la pudeur avec violence. Attentat à la pudeur commis avec ou sans violence sur la personne d'une fille âgée de moins de dix ans, attentat à la pudeur commis avec ou sans violence sur la personne d'une fille âgée de plus de dix et de moins de douze ans; attentat à la pudeur avec violence commis sur une personne du sexe féminin; ou tentative punie en Angleterre sous le nom 'Attempt to have carnal knowledge of a girl under twelve years of age.'

“ 6. Enlèvement et emprisonnement illégal de personnes, vol, abandonnement, exposition ou détention illégale d'enfants.

“ 7. Enlèvement de mineurs.

“ 8. Bigamie.

“ 9. Actes de violences ou sévices ayant causés des blessures graves.

“ 10. Violences contre un magistrat ou officier public.

“ 11. Menaces écrites ou autres faites en vue d'extorquer de l'argent ou des valeurs.

“ 12. Faux témoignage, ou subornation de témoins.

“ 13. Incendie volontaire.

" 14. Burglary, or housebreaking, robbery with violence, larceny or embezzlement.

" 15. Fraud by bailee, banker, agent, factor, trustee, director, member, or public officer of any company, made criminal by any law for the time being in force.

" 16. Obtaining money, valuable security or goods by false pretences; receiving any money, valuable security, or other property, knowing the same to have been unlawfully obtained.

" 17. (a.) Counterfeiting or altering money, or bringing into circulation counterfeited or altered money;

" (b.) Forgery, or counterfeiting or altering or uttering what is forged, counterfeited, or altered;

" (c.) Knowingly making without lawful authority any instrument, tool, or engine adapted and intended for counterfeiting of coin of the realm.

" 18. Crimes against Bankruptcy Law.

" 19. Any malicious act done with intent to endanger persons in a railway train.

" 20. Malicious injury to property, if such offence be indictable.

" The extradition is also to take place for participation in any of the aforesaid crimes, as an accessory before or after the fact, provided such participation be punishable by the laws of both Contracting Parties.

" Article III.

" The extradition shall not take place if the person claimed on the part of the Government of the United Kingdom, or the person claimed on the part of the Government of the Grand Duchy of Luxembourg, has already been tried and discharged or punished, or is still under trial, in the Grand Duchy or in the United Kingdom, respectively, for the crime for which his extradition is demanded.

" If the person claimed on the part of the Government of the United Kingdom, or if the person claimed on the part of the Government of the Grand Duchy of Luxembourg should be under examina-

" 14. Vol avec effraction, escroquerie, ou violence; toute soustraction frauduleuse.

" 15. Fraude par un administrateur, banquier, agent, procureur, tuteur, ou curateur, directeur, membre, ou fonctionnaire d'une société quelconque, pour autant que le fait est puni par les lois en vigueur.

" 16. Escroquerie d'argent, de valeurs ou de marchandises sous de faux prétextes; recel d'argent, de valeurs, ou d'autres propriétés, avec connaissance de leur provenance illégitime.

" 17. (a.) Contrefaçon ou altération de monnaie, ou mise en circulation de la monnaie contrefaite ou altérée;

" (b.) Faux, contrefaçon ou altération, ou mise en circulation de ce qui est falsifié, contrefait, ou altéré,

" (c.) Fabrication avec connaissance de cause, en dehors de l'autorisation légale, d'un instrument, outil, ou engin destiné à la contrefaçon de la monnaie du pays.

" 18. Crimes contre les lois sur les banqueroutes.

" 19. Toute acte commis avec intention de mettre en danger la vie de personnes se trouvant dans un train de chemin de fer.

" 20. Atteinte à la propriété, avec mauvaise intention, pour autant que le fait est punissable par les lois.

" L'extradition aura également lieu pour complicité à un des crimes ci-dessus mentionnés, que la complicité se soit produite avant ou après la perpétration, pourvu que la complicité soit punissable par les lois des deux Parties Contractantes.

" Article III.

" L'extradition ne sera pas accordée si l'individu poursuivi par le Gouvernement du Royaume-Uni ou par le Gouvernement du Grand-Duché de Luxembourg, a déjà été dans le Grand-Duché ou dans le Royaume-Uni l'objet d'une instruction ou d'une ordonnance de non-lieu pour le crime, pour lequel l'extradition est demandée, ou s'il est encore en état de prévention, ou qu'il ait déjà été puni pour ce fait.

" Si l'individu poursuivi par le Gouvernement du Royaume-Uni ou par le Gouvernement du Grand-Duché de Luxembourg est en état de prévention dans le Grand-Duché ou dans le Royaume-Uni pour un

tion for any other crime in the Grand Duchy or in the United Kingdom respectively, his extradition shall be deferred until the conclusion of the trial, and the full execution of any punishment awarded to him.

“ Article IV.

“ The extradition shall not take place if, subsequently to the commission of the crime, or the institution of the penal prosecution, or the conviction thereon, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the State applied to.

“ Article V.

“ A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is one of a political character, or if he prove that the requisition for his surrender has in fact been made with a view to try or to punish him for an offence of a political character.

“ Article VI.

“ A person surrendered can in no case be kept in prison, or be brought to trial in the State to which the surrender has been made, for any other crime or on account of any other matters than those for which the extradition shall have taken place, until he has been restored or has had the opportunity of returning to the country from whence he was surrendered.

“ The period of one month shall be considered as the limit of the period during which the prisoner may, with the view of securing the benefits of this Article, return to the country from whence he was surrendered.

“ This stipulation does not apply to crimes committed after the extradition.

“ Article VII.

“ The requisition for extradition must always be made by the way of diplomacy, and to wit, in the Grand Duchy of Luxembourg by the British Minister in Luxembourg, and in the United Kingdom to the Secretary of State for Foreign Affairs by the Foreign Minister in Great Britain, who, for the purposes of this Treaty, is recognised by Her

autre crime, son extradition sera différée jusqu'à la conclusion du procès et l'exécution complète de la peine lui infligée.

“ Article IV.

“ L'extradition n'aura pas lieu si postérieurement à la perpétration du crime, aux poursuites ou à la condamnation, la prescription de l'action ou de la peine est acquise d'après les lois du pays où le prévenu s'est réfugié.

“ Article V.

“ Aucun criminel fugitif ne sera extradé, si le délit pour lequel l'extradition est demandée, est considéré comme un délit politique, ou si l'individu prouve que la demande d'extradition a été faite en réalité dans le but de le poursuivre ou de le punir pour un délit d'un caractère politique.

“ Article VI.

“ L'individu qui aura été livré ne pourra, dans le pays auquel l'extradition a été accordée, être tenu en état d'arrestation ou poursuivi pour aucune infraction ou fait autre que ceux ayant motivé l'extradition, jusqu'à ce qu'il ait rendu ou qu'il ait eu l'occasion de retourner au pays qui l'a extradé.

“ Le délai d'un mois sera considéré comme la limite du temps pendant lequel le prisonnier, afin de s'assurer les bienfaits de cet Article, peut retourner au pays dont il a été extradé.

“ Cette stipulation n'est pas applicable aux crimes commis après l'extradition.

“ Article VII.

“ L'extradition sera toujours demandée par la voie diplomatique, savoir: dans le Grand-Duché de Luxembourg, par l'Envoyé Britannique, et dans le Royaume-Uni au Secrétaire d'Etat pour les Affaires Etrangères, par le Ministre Etranger dans le Grande-Bretagne, lequel sera, à cette fin, reconnu par Sa Majesté la Reine comme le

Majesty as a Diplomatic Representative of the Grand Duchy of Luxemburg.

"The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition, and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there.

"If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent Court of the State that makes the requisition for extradition.

"A requisition for extradition cannot be founded on sentences passed *in contumaciam*.

" Article VIII.

"If the requisition for extradition be in accordance with the foregoing stipulations, the competent authorities of the State applied to shall proceed to the arrest of the fugitive.

"The prisoner is then to be brought before a competent Magistrate, who is to examine him and to conduct the preliminary investigation of the case, according to the laws of the country in which he is found.

" Article IX.

"The extradition shall not take place before the expiration of fifteen days from the date of the fugitive criminal's committal to prison to await his surrender, and then only if the evidence produced in due time be found sufficient according to the laws of the State applied to.

" Article X.

"A fugitive criminal may, however, be apprehended under a warrant issued by any Police Magistrate, Justice of the Peace, or other competent authority in either country, on such information or complaint, and such evidence, or after such proceedings as would, in the opinion of the person issuing the warrant, justify the issue of a warrant, if the crime had been committed or the prisoner convicted, in that part of the dominions of the two Contracting Parties in

Représentant Diplomatique du Grand-Duché de Luxembourg.

"La demande d'extradition d'un prévenu devra être accompagnée d'un mandat d'arrêt décerné par l'autorité compétente du pays requérant, et des preuves qui, d'après les lois de l'endroit où le prévenu a été trouvé, justifieraient son arrestation, si l'acte punissable y avait été commis.

"Si la demande d'extradition concerne une personne déjà condamnée, on doit produire l'arrêt de condamnation qui a été rendu par le Tribunal compétent de l'Etat requérant.

"La demande d'extradition ne peut se baser sur des arrêts qui ont été rendus par contumace.

" Article VIII.

"Si la demande d'extradition est en accord avec les stipulations précédentes, les autorités compétentes de l'Etat auquel la demande d'extradition a été faite, procéderont à l'arrestation du fugitif.

"Le prisonnier sera ensuite amené devant un magistrat compétent, qui devra l'examiner et conduire les investigations préliminaires d'après les lois du pays où il est trouvé.

" Article IX.

"L'extradition n'aura pas lieu avant l'expiration de quinze jours à dater de l'arrestation du criminel fugitif attendant son extradition, et elle n'aura lieu que sur la production en temps utile de pièces trouvées suffisantes d'après les lois de l'Etat requis.

" Article X.

"Un malfaiteur fugitif peut néanmoins être arrêté dans les deux pays en vertu d'un mandat d'arrêt décerné par un magistrat ou fonctionnaire de police, par un Juge de Paix ou telle autre autorité compétente, sur une dénonciation ou plainte, et sur les preuves, ou d'après une procédure établie, que, dans l'opinion du fonctionnaire qui décerne le mandat d'arrêt, cette mesure serait justifiée, si le crime avait été commis ou si le prisonnier avait été condamné dans la partie

which he exercises jurisdiction: Provided however that, in the United Kingdom, the accused shall in such case be sent as speedily as possible before a Police Magistrate in London. He shall be discharged as well in the United Kingdom as in the Grand Duchy of Luxembourg, if, within fourteen days, a requisition shall not have been made for his surrender by the Diplomatic Agent of his country.

“ Article XI.

“ If, in any criminal matter, pending in any Court or Tribunal of one of the two countries, it is thought desirable to take the evidence of any witness in the other, such evidence may be taken by the judicial authorities in accordance with the laws in force on this subject in the country where the witness may be.

“ Article XII.

“ All articles seized, which were in the possession of the person to be surrendered at the time of his apprehension, shall, if the competent authority of the State applied to for the extradition has ordered the delivery thereof, be given up when the extradition takes place; and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof of the crime.

“ Article XIII.

“ The High Contracting Parties renounce any claim for the reimbursement of the expenses incurred by them in the arrest and maintenance of the person to be surrendered, and his conveyance till placed on board ship, as well as for the reimbursement of the expenses incurred in taking the evidence of any witness in consequence of Article XI., and in giving up and returning seized articles. They reciprocally agree to bear such expenses themselves.

“ Article XIV.

“ The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of Her Britannic Majesty.

“ The requisition for the sur-

des territoires des deux Parties Contractantes où le fonctionnaire exerce la juridiction. Il est stipulé toutefois que, dans le Royaume-Uni, le prévenu devra, en pareil cas être aussi promptement que possible conduit devant un magistrat de police à Londres. Il devra être mis en liberté dans le Royaume-Uni et dans le Grand-Duché de Luxembourg si, dans l'espace de quatorze jours, une demande d'extradition n'est pas faite par l'Agent Diplomatique de son pays.

“ Article XI.

“ Si, dans une matière criminelle pendante devant une Cour ou un Tribunal de l'un des deux pays, il est jugé désirable d'entendre dans l'autre les dépositions d'un témoin, pareilles dépositions peuvent être reçues par les autorités judiciaires d'après les lois en vigueur sur la matière dans le pays où le témoin se trouve.

“ Article XII.

“ Les objets saisis en la possession de l'individu au moment de son arrestation seront, si l'autorité compétente de l'Etat requis en a ordonné la remise, livrés lorsque l'extradition aura lieu, et cette remise ne comprendra pas seulement les objets enlevés, mais encore tout ce qui peut servir de pièce à conviction.

“ Article XIII.

“ Les Hautes Parties Contractantes renoncent à toute réclamation pour le remboursement des frais qui leur ont été occasionnées par l'arrestation, l'entretien, et le transport de l'individu jusqu'au bord d'un navire, ainsi que de ceux occasionnées par la déposition d'un témoin, en conséquence de l'Article XI, et par la remise et la restitution des objets saisis. Elles consentent à supporter réciproquement les dits frais.

“ Article XIV.

“ Les stipulations du présent Traité seront applicables aux Colonies et possessions étrangères de Sa Majesté Britannique.

“ La demande d'extradition d'un

render of a fugitive criminal who has taken refuge in any of such Colonies or foreign possessions shall be made to the Governor or to the supreme authority of such Colony or possession through the Luxemburg Consul, or, in case there should be no Luxemburg Consul, through the Consular Agent of another State charged for the occasion with Luxemburg interests in the Colony or possession in question, and recognised by such Governor or supreme authority as such.

"The Governor or supreme authority above mentioned shall decide with regard to such requisitions as nearly as possible in accordance with the provisions of the present Treaty. He will, however, be at liberty either to consent to the extradition or report the case to his Government.

"Her Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of such individuals as shall have committed in the Grand Duchy of Luxemburg any of the crimes hereinafore (*sic*) mentioned, who may take refuge within such Colonies and foreign possessions, on the basis, as nearly as may be, of the provisions of the present Treaty.

"The requisition for the surrender of a fugitive criminal from any Colony or foreign possession of Her Britannic Majesty shall be governed by the rules laid down in the preceding Articles of the present Treaty.

" Article XV.

"The present Treaty shall come into force ten days after its publication in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties, but shall remain in force for six months after notice has been given for its termination.

"The Treaty shall be ratified, and the ratifications shall be exchanged at Brussels as soon as possible.

"In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

criminel qui s'est réfugié dans une de ces Colonies ou Possessions étrangères sera faite au Gouverneur ou à l'autorité suprême de cette Colonia ou Possession par le Consul Luxembourgeois, ou, à défaut d'un Consul Luxembourgeois, par l'Agent Consulaire d'un autre Etat chargé pour l'occasion des intérêts Luxembourgeois dans la Colonia ou Possession en question, et reconnu comme tel par le Gouverneur ou l'autorité suprême.

"Le Gouverneur, ou l'autorité suprême, mentionné ci-dessus, décidera à l'égard de telles demandes, en se conformant autant que possible aux dispositions du présent Traité. Il sera néanmoins libre d'accorder l'extradition ou de soumettre le cas à son Gouvernement.

"Sa Majesté Britannique se réserve cependant le droit de faire, en se conformant autant que possible aux stipulations du présent Traité, des arrangements spéciaux dans les Colonies ou Possessions étrangères pour l'extradition d'individus qui ont commis dans le Grand-Duché de Luxembourg un des crimes prévus dans le Traité, et qui auraient trouvé un refuge dans ces Colonies ou Possessions étrangères.

"Les demandes concernant l'extradition de criminels qui se sont échappés d'un des Colonies ou Possessions étrangères de sa Majesté Britannique seront traitées suivant les dispositions des Articles précédents du présent Traité.

" Article XV.

"Le présent Traité entrera en vigueur dix jours après sa publication dans les formes prescrites par la législation des Hautes Parties Contractantes. Le Traité peut être dénoncé par chacune des Parties Contractantes; il demeurera toutefois en vigueur encore six mois après qu'il aura été dénoncé.

"Le Traité sera ratifié, et les ratifications en seront échangées à Bruxelles, le plus tôt que faire se peut.

"En foi de quoi, les Plénipotentiaires respectifs ont signé le présent Traité, et y ont apposé le cachet de leurs armes.

“Done at Luxemburg, the twenty-fourth day of November in the year of our Lord one thousand eight hundred and eighty.”

“Fait à Luxembourg le vingt-quatre Novembre, de l’an mil huit cent quatre-vingt.”

“(L.S.) *W. Stuart.*
“(L.S.) *F. de Blochausen.*”

“(L.S.) *W. Stuart.*
“(L.S.) *F. de Blochausen.*”

And whereas the ratifications of the said Treaty were exchanged at Brussels on the fifth day of January, one thousand eight hundred and eighty-one :

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and in virtue of the authority committed to Her by the said recited Acts, doth order, and it is hereby ordered, that from and after the fifteenth day of March, one thousand eight hundred and eighty-one, the said Acts shall apply in the case of the said Treaty with the King of the Netherlands, Grand Duke of Luxemburg.

C. L. Peel.

(q) **Mexico.**

At the Court at Windsor, the 6th day of April, 1889.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.

Duke of Rutland.

Earl of Limerick.

Viscount Lewisham.

Whereas * * * [*Here follow the first three recitals to the Order relating to the Argentine Republic, printed at p. 1 above.*]

And whereas a Treaty was concluded on the seventh day of September, one thousand eight hundred and eighty-six, between Her Majesty and the President of the United States of Mexico,

for the mutual extradition of fugitive criminals, which Treaty is in the terms following :—

" Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and his Excellency the President of the United States of Mexico, having judged it expedient, with a view to the better administration of justice and to the prevention of crime within the two countries and their jurisdictions, that persons charged with or convicted of the crimes or offences hereinafter enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up, have named as their Plenipotentiaries to conclude a Treaty (that is to say):

" Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Sir Spenser St. John, Knight Commander of St. Michael and St. George, Envoy Extraordinary and Minister Plenipotentiary of Her Britannic Majesty in Mexico;

" And his Excellency the President of the United States of Mexico, Señor Licenciado Don Emilio Velasco, ex-Minister Plenipotentiary of Mexico in France, &c., &c.;

" Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles :—

" Article I.

" The High Contracting Parties engage to deliver up to each other, under the circumstances and conditions stated in the present Treaty, those persons who, being accused or convicted of any of the crimes or offences enumerated in Article II., committed in the territory of the one Party, shall be found within the territory of the other Party.

" Article II.

" Extradition shall be reciprocally granted for the following crimes or offences :—

" 1. Murder (including assassination, parricide, infanticide, poisoning), or attempt or conspiracy to murder.

" Su Excelencia el Presidente de los Estados Unidos Mexicanos y Su Majestad la Reina del Reino Unido de la Gran Bretaña é Irlanda, habiendo creído conveniente, para mejor administrar justicia y para prevenir los delitos en ambos países y sus jurisdicciones, que los individuos acusados de los delitos enumerados mas adelante ó condenados por ellos, y que estén prófugos, sean en ciertos casos recíprocamente entregados, han nombrado sus Plenipotenciarios para celebrar un Tratado, á saber :

" Su Excelencia el Presidente de los Estados Unidos Mexicanos al Señor Licenciado Don Emilio Velasco, ex-Ministro Plenipotenciario de México en Francia, &c., &c.;

" Y Su Majestad la Reina del Reino Unido de la Gran Bretaña é Irlanda á Sir Spenser St. John, Caballero Comendador de San Miguel y San Jorge, Enviado Extraordinario y Ministro Plenipotenciario de Su Majestad Británica en México;

" Quienes, despues de haberse comunicado mutuamente sus respectivos plenos poderes, y encontrádolos en buena y debida forma, han convenido en los Artículos siguientes :—

" Artículo I.

" Las Altas Partes Contratantes se obligan á entregarse en los casos y con las condiciones estipuladas en el presente Tratado, á los que estando acusados ó condenados por alguno de los delitos enumerados en el Artículo II., y cometidos en el territorio de alguna de ellas, se encuentren en el territorio de la otra.

" Artículo II.

" Tendrá lugar la mutua extradición por los siguientes delitos :—

" 1. Homicidio calificado (comprendiéndose el asesinato, el parricidio, el infanticidio, el envenenamiento); ó el conato de

- " 2. Manslaughter.
- " 3. Administering drugs or using instruments with intent to procure the miscarriage of women.
- " 4. Rape.
- " 5. Carnal knowledge, or any attempt to have carnal knowledge, of a girl under 16 years of age, if the evidence produced justifies committal for those crimes according to the laws of both the Contracting Parties.
- " 6. Indecent assault.
- " 7. Kidnapping and false imprisonment, child-stealing.
- " 8. Abduction.
- " 9. Bigamy.
- " 10. Maliciously wounding or inflicting grievous bodily harm.
- " 11. Assault occasioning actual bodily harm.
- " 12. Threats, by letter or otherwise, with intent to extort money or other things of value.
- " 13. Perjury or subornation of perjury.
- " 14. Arson.
- " 15. Burglary or housebreaking, robbery with violence, larceny, or embezzlement.
- " 16. Fraud by a bailee, banker, agent, factor, trustee, director, member, or public officer of any Company, made criminal by any law for the time being in force.
- " 17. Obtaining money, valuable security, or goods by false pretences: receiving any money, valuable security, or other property, knowing the same to have been stolen or unlawfully obtained.
- " 18. (a.) Counterfeiting or altering money, or bringing into circulation counterfeited or altered money.
- " (b.) Forgery, or counterfeiting or altering, or uttering what is forged, counterfeited, or altered.
- " (c.) Knowingly making, without lawful authority, any instru-

homicidio calificado; ó la colusion para cometerlo.

- " 2. Homicidio simple.
- " 3. El empleo de sustancias ó el uso de instrumentos con el fin de procurar el aborto.
- " 4. Violacion.
- " 5. Cópula ó conato de cópula con una jóven menor de diez y seis años de edad, si la prueba producida justifica la prision por esos delitos, conforme á las leyes de ambas Partes Contratantes.
- " 6. Atentado contra el pudor.
- " 7. Plagio; detencion ó prision ejecutada con falsedad; robo de niños.
- " 8. Rapto.
- " 9. Bigamia.
- " 10. Heridas ó golpes que ocasionen graves lesiones, unas y otros dados intencionalmente.
- " 11. Agresion violenta contra las personas, causándoles algun daño corporal.
- " 12. Amenazas en cartas ó hechas en otra forma, con el fin de obtener dinero ú otros objetos de valor.
- " 13. Perjurio ó soborno para que se cometa perjurio.
- " 14. Incendio voluntario.
- " 15. Allanamiento de morada; robo con violencia, robo sin violencia, peculado y abuso de confianza.
- " 16. Fraudes cometidos por los que reciben alguna cosa mueble en depósito ó con otro fin, siempre que no se transfiera el dominio; por los banqueros, agentes, factores, tenedores - administradores de bienes, directores, miembros ó empleados de una compañía; y que tengan el carácter de delito conforme á las leyes vigentes al verificarse el hecho.
- " 17. Estafa: recepcion de dinero, valores, ú otros bienes robados ú obtenidos ilegalmente.
- " 18. (a.) La falsificacion ó alteracion de la moneda; ó poner en circulacion moneda falsa ó alterada.
- " (b.) La falsificacion de documentos públicos ó privados, ó poner en circulacion documentos falsos ó falsificados.
- " (c.) Fabricar á sabiendas, sin autoridad legal, algun instrumento,

ment, tool, or engine, adapted and intended for the counterfeiting of coin of the realm.

" 19. Crimes against Bankruptcy Law.

" 20. Any malicious act done with intent to endanger the safety of any person travelling or being upon a railway.

" 21. Malicious injury to property, if such offence be indictable.

" 22. Crimes committed at sea:—

" (a.) Piracy by the law of nations.

" (b.) Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

" (c.) Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.

" (d.) Assault on board a ship on the high seas with intent to destroy life, or to do grievous bodily harm.

" 23. Dealing in slaves in such manner as to constitute a criminal offence against the laws of both States.

" The extradition is also to be granted for participation in any of the aforesaid crimes, provided such participation be punishable by the laws of both Contracting Parties.

" Extradition may also be granted at the discretion of the State applied to in respect of any other crime for which, according to the laws of both the Contracting Parties for the time being in force, the grant can be made.

" Article III.

" Either Government may, in its absolute discretion, refuse to deliver up its own subjects to the other Government.

" Article IV.

" The extradition shall not take place if the person claimed on the part of Her Majesty's Government, or the person claimed on the part of the Government of Mexico, has already been tried and discharged or punished, or is still under trial in the territory of Mexico or in the

utensilio ó máquina propio y adecuado para falsificar moneda de los Estados respectivos.

" 19. Delitos contra las leyes de quiebra.

" 20. Todo acto intencional ejecutado con el propósito de poner en peligro la seguridad de cualquiera persona que viaje ó esté en un ferrocarril.

" 21. Daños intencionales causados á la propiedad, siempre que el hecho motive un procedimiento criminal.

" 22. Delitos cometidos en alta mar:—

" (a.) Piratería conforme al derecho de gentes.

" (b.) Echar á pique ó destruir un buque en el mar; ó coludirse para hacerlo, ó el conato de estos delitos.

" (c.) Amotinarse, ó coludirse con el mismo fin, por dos ó mas personas á bordo de un buque en alta mar, contra la autoridad del capitán ó patron.

" (d.) Agresion violenta á bordo de un buque en alta mar con el propósito de privar de la vida ó causar graves lesiones corporales.

" 23. Tráfico de esclavos en términos que constituya un delito contra las leyes de ambos Estados.

" También hay lugar á la extradición por tomar parte en cualquiera de los delitos expresados, con tal que la participacion sea punible conforme á las leyes de ambas Partes Contratantes.

" Puede tambien concederse la extradición, á arbitrio del Estado á quien se pida, por cualquiera otro delito, respecto del cual se puede conceder la extradición, conforme á las leyes de ambas Partes Contratantes, vigentes en la época en que sea pedida.

" Artículo III.

" Cada uno de los dos Gobiernos puede, á su exclusivo arbitrio, rehusar la entrega de sus nacionales al otro Gobierno.

" Artículo IV.

" La extradición no tendrá lugar si el individuo reclamado por parte del Gobierno Mexicano, ó si el individuo reclamado por parte del Gobierno de Su Majestad, ya ha sido juzgado y absuelto ó castigado, ó está todavía enjuiciado en el territorio del Reino Unido ó el de

United Kingdom respectively for the crime for which his extradition is demanded.

"If the person claimed on the part of Her Majesty's Government, or on the part of the Government of Mexico, should be under examination for any other crime in the territory of Mexico, or in the United Kingdom respectively, his extradition shall be deferred until the conclusion of the trial and the full execution of any punishment awarded to him.

" Article V.

"The extradition shall not take place if, subsequently to the commission of the crime, or the institution of the penal prosecution or the conviction thereon, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the State applied to.

" Article VI.

"A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove that the requisition for his surrender has, in fact, been made with a view to try or punish him for an offence of a political character.

" Article VII.

"A person surrendered can in no case be kept in prison or be brought to trial in the State to which the surrender has been made, for any other crime, or on account of any other matters, than those for which the extradition shall have taken place, until he has been restored, or has had an opportunity of returning to the State by which he has been surrendered. This stipulation does not apply to crimes committed after the extradition.

" Article VIII.

"The requisition for extradition shall be made through the Diplomatic Agents of the High Contracting Parties respectively.

"The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition, and by such evidence as, according to the laws of the place where the accused is found, would

México respectivamente, por el delito con motivo del cual se pide la extradición.

"Si el individuo reclamado por parte del Gobierno Mexicano, ó por parte del Gobierno de Su Majestad, estuviese enjuiciado por otro delito en el territorio del Reino Unido ó en el de México respectivamente, se diferirá su extradición hasta la terminación del juicio y en su caso hasta haber extinguido la pena que se le haya impuesto.

" Artículo V.

"No habrá lugar á la extradición si despues de cometido el delito ó de comenzado el proceso, ó de la condenación, ha prescrito la acción ó la pena conforme á las leyes del Estado al que se pide la extradición.

" Artículo VI.

"No se entregará al reo prófugo si el delito con motivo del cual se pide su entrega tiene carácter político, ó si él probase que en realidad se ha hecho el requerimiento para su entrega con la mira de juzgarle ó castigarle por un delito de carácter político.

" Artículo VII.

"El individuo entregado en ningún caso puede ser mantenido en prisión ó juzgado en el Estado al cual se ha hecho su entrega, por algún otro delito, ó con motivo de cualesquiera otros negocios, diferentes de aquellos que han motivado la extradición, hasta que haya sido devuelto ó haya tenido una oportunidad de volver al Estado por el cual fué entregado. Esta estipulación no es aplicable á delitos cometidos despues de la extradición.

" Artículo VIII.

"La demanda de extradición deberá hacerse por medio de los Agentes Diplomáticos respectivos de las Altas Partes Contratantes.

"La demanda de extradición de un acusado estará acompañada de un mandamiento de prisión expedido por la autoridad competente del Estado que pida la extradición, y de la prueba que, conforme á las leyes del lugar donde se encuentra al acusado, justificarian su deten-

justify his arrest if the crime had been committed there.

"If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent Court of the State that makes the requisition for extradition.

"A sentence passed in *contumacia* is not to be deemed, a conviction, but a person so sentenced may be dealt with as an accused person.

" Article IX.

"If the requisition for extradition be in accordance with the foregoing stipulations, the competent authorities of the State applied to shall proceed to the arrest of the fugitive.

" Article X.

A fugitive criminal may be apprehended, under a warrant issued by any Police Magistrate, Justice of the Peace, or other competent authority in either country, on such information or complaint, and such evidence, or after such proceedings as would, in the opinion of the authority issuing the warrant, justify the issue of a warrant if the crime had been committed or the person convicted in that part of the dominions of the two Contracting Parties in which the Magistrate, Justices of the Peace, or other competent authority exercises jurisdiction: provided, however, that in the United Kingdom the accused shall, in such case, be sent as speedily as possible before a Police Magistrate in London. In the Republic of Mexico the Government will decide on the extradition by administrative procedure, until a judicial procedure be established by law, when the accused will be delivered as soon as possible to the Judge designated by law. The criminal shall, in accordance with this Article, be discharged, as well in Mexico as in the United Kingdom, if within the term of thirty days a requisition for extradition shall not have been made by the Diplomatic Agent of his country in accordance with the stipulations of this Treaty.

"The same rule shall apply to the cases of persons accused or convicted of any of the crimes or

cion, si allí se hubiere cometido el delito.

"Si el requerimiento se refiere á un individuo ya condenado, se acompañará la sentencia condenatoria pronunciada contra el condenado por el Tribunal competente del Estado que pida la extradición.

"Una sentencia pronunciada en rebeldía no se tendrá como sentencia condenatoria; pero el individuo así condenado será considerado como acusado.

" Artículo IX.

"Si la demanda de extradición está conforme con las precedentes estipulaciones, las autoridades competentes del Estado al cual se haya pedido aquella, procederán á la aprehension del prófugo.

" Artículo X.

"Se podrá aprehender á un reo prófugo en virtud de un mandamiento librado por cualquiera Magistrado de Policía, Juez de Paz ó otra autoridad competente en uno ú otro país, fundado en los informes ó quejas, y en las pruebas ó diligencias que, en opinion de la autoridad que expida el mandamiento, justificarian este acto si el delito hubiese sido cometido ó condenada la persona en aquella parte de los dominios de ambas Partes Contratantes en la cual el Magistrado, Juez de Paz, ú otra autoridad competente ejerce jurisdicción; con tal, sin embargo, que en el Reino Unido el acusado sea consignado, en este caso, tan pronto como sea posible, á un Magistrado de Policía en Londres. En la República Mexicana el Gobierno decidirá en la vía administrativa sobre la extradición, entre tanto las leyes no establezcan un procedimiento judicial, en cuyo caso el acusado será consignado tan pronto como sea posible al Juez que la ley designe. De conformidad con este Artículo el reo será puesto en libertad, tanto en el Reino Unido como en la República Mexicana, si en el término de treinta días no se ha hecho la demanda de extradición por el Agente Diplomático del país respectivo, con arreglo á las estipulaciones de este Tratado.

"Se observará la misma regla en los casos de individuos acusados ó condenados por alguno de los delitos

offences specified in this Treaty, and committed on the high seas on board any vessel of either country which may come into a port of the other.

“Article XI.

“The extradition shall take place only if the evidence be found sufficient, according to the laws of the State applied to, either to justify the committal of the prisoner for trial, in case the crime had been committed in the territory of the same State, or to prove that the prisoner is the identical person convicted by the Courts of the State which makes the requisition, and that the crime of which he has been convicted is one in respect of which extradition could, at the time of such conviction, have been granted by the State applied to: and no criminal shall be surrendered until after the expiration of fifteen days from the date of his committal to prison to await the warrant for his surrender.

“Article XII.

“In the examinations which they will have to make in accordance with the foregoing stipulations, the authorities of the State applied to for said extradition shall admit as valid evidence the depositions or statements of witnesses taken in the other State, under oath or under solemn affirmation to tell the truth, according as its legislation may provide, or the copies of these depositions or statements, and likewise the warrants issued and sentences pronounced in the State which demands the extradition, the certificates of the fact of the condemnation, or the judicial documents which prove it, provided the same are authenticated as follows:

“1. A warrant must purport to be signed by a Judge, Magistrate, or officer of the other State.

“2. Depositions or affirmations, or the copies thereof, must purport to be certified under the hand of a Judge, Magistrate, or Officer of the other State, to be the original depositions or affirmations, or to be true copies thereof, as the case may require.

“3. A certificate of, or a judicial document stating the fact of a conviction, must purport to be certified

especificados en este Tratado, y cometidos en alta mar á bordo de un buque de alguno de los dos países que llegue á un puerto del otro.

“Artículo XI.

“Solo tendrá lugar la extradición si, conforme á las leyes del Estado al cual se pide aquella, se consideran suficientes las pruebas, ya para que el detenido hubiera sido sometido á juicio, en caso de haberse perpetrado el delito en le territorio del mismo Estado; ya para probar que el preso es la misma persona condenada por los Tribunales del Estado que hace el requerimiento, y que el delito por el que fué condenado es de aquellos en punto á los cuales el Estado á quien se pidió la extradición, podía conceder esta en la época de la condenación. Ningun reo será entregado hasta despues de haber trascurrido quince dias contados desde la fecha en que fué puesto en prision en espera del mandamiento para su entrega.

“Artículo XII.

“Las autoridades del Estado al que se pida la extradición, en el exámen que deben hacer conforme á las precedentes estipulaciones, admitirán como pruebas válidas las deposiciones ó declaraciones de testigos, tomados en el otro Estado bajo juramento ó bajo protesta de decir verdad, conforme lo prevenga su legislación, ó las copias de estas deposiciones ó declaraciones, ó igualmente los mandamientos librados y sentencias pronunciadas en el Estado que pide la extradición, los certificados del hecho de la condenación ó los documentos judiciales que lo comprueben, con tal que estén legalizados en la forma siguiente:—

“1. Un mandamiento debe expresar que está firmado por un Juez, Magistrado, ó funcionario del otro Estado.

“2. Las deposiciones ó declaraciones, ó sus copias, de en expresar que están certificadas por un Juez, Magistrado, ó funcionario del otro Estado, y que son las deposiciones ó declaraciones originales, ó copias exactas de las mismas, segun lo exija el caso.

“3. Un certificado del hecho de la condenación, ó un documento judicial que lo compruebe, debe

by a Judge, Magistrate, or Officer of the other State.

" 4. In every case such warrant, deposition, affirmation, copy, certificate, or judicial document must be authenticated either by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of the other State; but any other mode of authentication for the time being permitted by law in the State where the examination is taken may be substituted for the foregoing.

" Article XIII.

" If the individual claimed by one of the two High Contracting Parties, in pursuance of the present Treaty, should be also claimed by one or several other Powers on account of other crimes or offences committed upon their respective territories, his extradition shall be granted to that State whose demand is earliest in date.

" Article XIV.

" If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, or within such further time as the State applied to, or the proper Tribunal thereof shall direct, the fugitive shall be set at liberty.

" Article XV.

" All articles seized which were in the possession of the person to be surrendered at the time of his apprehension shall, if the competent authority of the State applied to for the extradition has ordered the delivery of such articles, be given up when the extradition takes place; and the said delivery shall extend, not merely to the stolen articles, but to everything that may serve as a proof of the crime.

" Article XVI.

" All expenses connected with extradition shall be borne by the demanding State.

" Article XVII.

" The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of

expresar que está certificado por un Juez, Magistrado, ó funcionario del otro Estado.

" 4. En todo caso, este mandamiento, deposicion, declaracion, copia, certificado, ó documento judicial serán legalizados ó por el juramento de algun testigo, ó sellándoseles con el sello oficial del Ministro de Justicia ó otro Ministro del otro Estado; pero cualquiera otra forma de legalizacion permitida por la ley en la época y en el Estado donde se haga el exámen pueda ser sustituida por la precedente.

" Artículo XIII.

" Si el individuo reclamado por una de las dos Altas Partes Contratantes, en virtud del presente Tratado, lo fuere tambien por una ó por varias otras Potencias por razon de otros delitos cometidos en sus respectivos territorios, se concederá su extradicion al Estado cuya demanda sea primera en fecha.

" Artículo XIV.

" Se pondrá en libertad al reo prófugo, si no se produce prueba suficiente para la extradicion en el término de dos meses contados desde la fecha de su aprehension, ó dentro del término que, ademas de estos dos meses, señale el Estado á quien se pide la extradicion ó el Tribunal competente del mismo.

" Artículo XV.

" Todos los objetos secuestrados que, al tiempo de la aprehension, estaban en poder del individuo á quien se ha de entregar, tambien serán entregados cuando la extradiceion tenga lugar, si la autoridad competente del Estado al que aquella se ha pedido, ordena la entrega de los mencionados objetos: dicha entrega se extenderá, no solo á los objetos robados, sino á todo lo que pueda servir de prueba del delito.

" Artículo XVI.

" Todos los gastos originados de la extradiceion serán por cuenta del Estado que la haya pedido.

" Artículo XVII.

" Las estipulaciones del presente Tratado se aplicarán á las Colonias y posesiones extranjerass de Sa

Her Britannic Majesty, so far as the laws for the time being in force in such colonies and foreign possessions respectively will allow.

"The requisition for the surrender of a fugitive criminal who has taken refuge in any of such Colonies or foreign possessions shall be made to the Governor or chief authority of such Colony or possession by the Chief Consular Officer of the Republic of Mexico in such Colony or possession.

"Such requisition may be disposed of, subject always, as nearly as may be, and so far as the law of such Colony or foreign possession will allow, to the provisions of this Treaty, by the said Governor or chief authority, who, however, shall be at liberty either to grant the surrender or to refer the matter to his Government.

"Her Britannic Majesty, shall however, be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of Mexican criminals who may take refuge within such Colonies and foreign possessions, on the basis, as nearly as may be, and so far as the law of such Colony or foreign possession will allow, of the provisions of the present Treaty.

"Requisitions for the surrender of a fugitive criminal emanating from any Colony or foreign possession of Her Britannic Majesty shall be governed by the rules laid down in the preceding articles of the present Treaty.

" Article XVIII.

"The present Treaty shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties by a notice not exceeding one year and not less than six months.

"The Treaty, after receiving the approval of the Congress of Mexico, shall be ratified, and the ratifications shall be exchanged at Mexico as soon as possible.

"In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

Majestad Británica, en cuanto lo permitan las leyes respectivas de dichas Colonias y posesiones extranjeras vigentes en la época en que se pida la extradición.

"La demanda para la entrega de un reo prófugo que se haya refugiado en alguna de estas Colonias ó posesiones se hará al Gobernador ó principal autoridad de la Colonia ó posesion por el principal Agente Consular de la Republica Mexicana en la Colonia ó posesion.

"La demanda puede ser resuelta sujetándose siempre, tan exactamente como sea posible, y en cuanto lo permitan las leyes de esta Colonia ó posesion extranjera, á las prevenciones de este Tratado, por el Gobernador ó autoridad principal, los cuales, sin embargo, estarán en libertad de conceder la entrega ó de someter el negocio á su Gobierno.

"Su Majestad Británica, no obstante, estará en libertad para hacer arreglos especiales en las Colonias Británicas y posesiones extranjeras, á efecto de entregar los reos Mexicanos que se refugien en esa, Colonias ó posesiones, sobre la base tan exactamente como sea posible y en cuanto lo permitan las leyes de la Colonia ó posesion extranjera, de las prevenciones del presente Tratado.

"Las demandas para la entrega de un reo prófugo, emanadas de alguna Colonia ó posesion extranjera de Su Majestad Británica, se regirán por las reglas establecidas en los anteriores Artículos del presente Tratado.

" Artículo XVIII.

"El presente Tratado comenzará á regir diez dias despues de su publicacion, hecha conforme á las reglas prescritas por las leyes de las Altas Partes Contratantes. Una ú otra de las Altas Partes Contratantes puede ponerle término dando noticia á la otra con una anticipacion que no exceda de un año ni sea menor de seis meses.

"El Tratado, despues de ser aprobado por el Congreso Mexicano, será ratificado, y las ratificaciones se cangearán en México, tan pronto como sea posible.

"En fe de lo cual los respectivos Plenipotenciarios lo han firmado y sellado con sus sellos.

"Done in two originals, at the city of Mexico, the 7th day of September, in the year one thousand eight hundred and eighty-six.

"(L.S.) *Spencer St. John.*
"(L.S.) *Emilio Velasco.*"

"Hecho en dos originales, en la ciudad de México, el día siete de Setiembre, de mil ochocientos ochenta y seis.

"(L.S.) *Spencer St. John.*
"(L.S.) *Emilio Velasco.*"

And whereas the ratifications of the said Treaty were exchanged at Mexico on the twenty-second day of January, one thousand eight hundred and eighty-nine :

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and in virtue of the authority committed to Her by the said recited Acts, doth order, and it is hereby ordered, that from and after the 19th day of April, one thousand eight hundred and eighty-nine, the said Acts shall apply in the case of Mexico, and of the said Treaty with the President of the United States of Mexico.

Provided always, and it is hereby further ordered, that the operation of the said Acts shall be suspended within the Dominion of Canada so far as relates to the United States of Mexico and to the said Treaty, and so long as the provisions of the Canadian Act aforesaid of 1886 * continue in force, and no longer.

C. L. Peel.

(r) **Monaco.**

At the Court at Windsor, the 9th day of May, 1892.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.

Lord Steward.

Earl of Yarborough.

Sir Walter Barttelot, Bart.

Mr. Forwood.

Whereas * * * [*Here follow the first three recitals to the Order relating to the Argentine Republic, printed at p. 1 above.*]

* "The Extradition Act" (Revised Statutes of Canada, c. 143).

And whereas a Treaty was concluded on the seventeenth day of December, one thousand eight hundred and ninety-one, between Her Majesty and His Serene Highness the Prince of Monaco, for the mutual extradition of fugitive criminals, which Treaty is in the terms following :—

" Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Serene Highness the Prince of Monaco, having judged it expedient, with a view to the better administration of justice and to the prevention of crime within their respective territories, that persons charged with or convicted of the crimes herein-after enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up; the said High Contracting Parties have named as their Plenipotentiaries to conclude a Treaty for this purpose, that is to say :

" Sa Majesté la Reine du Royaume-Uni de la Grande-Bretagne et d'Irlande, Impératrice des Indes, et Son Altesse Sérénissime le Prince de Monaco, ayant jugé convenable, en vue d'une meilleure administration de la justice, et pour prévenir les crimes dans leurs territoires respectives, que les individus accusés ou convaincus des crimes ci-après énumérés, et qui se seraient soustraits par la fuite aux poursuites de la justice fussent, dans certaines circonstances, réciproquement extradés: les dites Hautes Parties Contractantes ont nommé pour leurs Plénipotentiaires, à l'effet de conclure un Traité dans ce but, savoir :

" Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, Edwin Henry Egerton, Esquire, Companion of the Most Honourable Order of the Bath, Her Majesty's Minister Plenipotentiary at Paris;

" And His Serene Highness the Prince of Monaco, Louis Fernand de Bonnefoy, Baron du Charmel, Envoy Extraordinary and Minister Plenipotentiary of Monaco in France;

" Sa Majesté la Reine du Royaume-Uni de la Grande-Bretagne et d'Irlande, Impératrice des Indes, M. Edwin Henry Egerton, Compagnon du Très Honorable Ordre du Bain, Ministre Plénipotentiaire de Sa Majesté à Paris;

" Et Son Altesse Sérénissime le Prince de Monaco, Louis Fernand de Bonnefoy, Baron du Charmel, Envoyé Extraordinaire et Ministre Plénipotentiaire de Monaco en France;

" Who, having communicated to each other their respective Full Powers, found in good and due form, have agreed upon and concluded the following Articles :—

" Lesquels, après s'être communiqués leurs Pleins Pouvoirs respectifs, trouvés en bonne et due forme, ont arrêté et conclu les Articles suivants :—

" ARTICLE I.

" The High Contracting Parties engage to deliver up to each other

" ARTICLE I.

" Les Hautes Parties Contractantes s'engagent à se livrer ré-

those persons who, being accused or convicted of a crime or offence committed in the territory of the one Party, shall be found within the territory of the other Party, under the circumstances and conditions stated in the present Treaty.

" ARTICLE II.

" The crimes or offences for which the extradition is to be granted are the following :

" 1. Murder, or attempt, or conspiracy to murder.

" 2. Manslaughter.

" 3. Assault occasioning actual bodily harm. Malicious wounding or inflicting grievous bodily harm.

" 4. Counterfeiting or altering money, or uttering counterfeit or altered money.

" 5. Knowingly making any instrument, tool, or engine adapted and intended for counterfeiting coin.

" 6. Forgery, counterfeiting, or altering or uttering what is forged, or counterfeited or altered.

" 7. Embezzlement or larceny.

" 8. Malicious injury to property if the offence be indictable.

" 9. Obtaining money, goods, or valuable securities by false pretences.

" 10. Receiving money, valuable security, or other property knowing the same to have been stolen, embezzled, or unlawfully obtained.

" 11. Crimes against bankruptcy law.

" 12. Fraud by a bailee, banker, agent, factor, trustee, or director, or member or public officer of any Company.

" 13. Perjury, or subornation of perjury.

" 14. Rape.

" 15. Carnal knowledge, or any attempt to have carnal knowledge, of a girl under 16 years of age, so far as such acts are punishable by the law of the State upon which the demand is made.

ciproquement les individus qui, poursuivis ou condamnés pour un crime ou un délit commis sur le territoire de l'une des Parties, seraient trouvés sur le territoire de l'autre, dans les circonstances et sous les conditions prévues par le présent Traité.

" ARTICLE II.

" Les crimes et délits pour lesquels l'extradition sera accordée sont les suivants :—

" 1. Assassinat, tentative et complicité d'assassinat, ou complot ayant ce crime pour but.

" 2. Homicide sans préméditation ou guet-apens.

" 3. Voies de fait ayant occasionné des lésions corporelles.

" 4. Contrefaçon, altération de monnaies, et mise en circulation de monnaies contrefaites ou altérées.

" 5. Fabrication avec connaissance de cause d'un instrument, outil, ou engin destiné à la contrefaçon de la monnaie du pays.

" 6. Faux, contrefaçon, altération ou mise en circulation de pièces, effets ou écritures publics ou privés falsifiés, contrefaits, ou altérés.

" 7. Soustraction frauduleuse ou vol.

" 8. Destruction ou dégradation de toute propriété, lorsque le fait incriminé est punissable de peines criminelles ou correctionnelles.

" 9. Escroquerie d'argent, valeurs, ou d'autres objets, sous de faux prétextes.

" 10. Recel en connaissance de cause de numéraire, valeurs ou autres objets volés, provenant de soustractions, d'escroquerie ou d'abus de confiance.

" 11. Banqueroute frauduleuse et fraudes commises dans les faillites.

" 12. Abus de confiance (commis par un dépositaire, administrateur, banquier, fidéi-commissaire, mandataire, commissionnaire, membre ou fondateur d'une Société quelconque).

" 13. Faux serment ou subornation de témoins.

" 14. Viol.

" 15. Commerce charnel avec une jeune fille âgée de moins de 16 ans, ou tentative de ce fait, en tant que les faits sont punissables d'après la loi du pays requis.

"16. Indecent assault. Indecent assault without violence upon children of either sex under 13 years of age.

"17. Administering drugs or using instruments with intent to procure the miscarriage of a woman.

"18. Abduction.

"19. Child stealing.

"20. Abandoning children, exposing or unlawfully detaining them.

"21. Kidnapping and false imprisonment.

"22. Burglary or housebreaking.

"23. Arson.

"24. Robbery with violence.

"25. Any malicious act done with intent to endanger the safety of any person in a railway train.

"26. Threats by letter, or otherwise, with intent to extort.

"27. Piracy by law of nations.

"28. Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

"29. Assaults on board a ship on the high seas, with intent to destroy life, or to do grievous bodily harm.

"30. Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.

"31. Dealing in slaves in such a manner as to constitute a criminal offence against the laws of both States.

"Extradition is also to be granted for participation in any of the aforesaid crimes, provided such participation be punishable by the laws of both the Contracting Parties.

"Extradition may also be granted, at the discretion of the State applied to, in respect of any other crime for which, according to the laws of both the Contracting Parties for the time being in force, the grant can be made.

" ARTICLE III.

"Either Government may, in its absolute discretion, refuse to deliver
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"16. Attentat à la pudeur avec violence. Attentat à la pudeur sans violence sur des enfants de l'un ou l'autre sexe, âgés de moins de 13 ans.

"17. Administration de substances ou emploi d'instruments dans l'intention de provoquer l'avortement.

"18. Enlèvement ou détournement de mineurs.

"19. Vol d'enfants.

"20. Abandon, exposition, ou séquestration illégale d'enfants.

"21. Séquestration ou détention illégale.

"22. Vol avec effraction, escalade, ou à l'aide de fausses clefs.

"23. Incendie volontaire.

"24. Vol avec violence.

"25. Tout acte commis avec intention de mettre en danger la vie de personnes se trouvant dans un train de chemin de fer.

"26. Menaces, écrites ou autres, faites en vue d'extorsion.

"27. Piraterie considérée comme crime par le droit des gens.

"28. Submersion, échouement, ou destruction d'un navire en mer, ou tentative ou complot ayant ce crime pour but.

"29. Attaque à bord d'un navire en haute mer dans le but d'homicide ou afin de porter de graves lésions corporelles.

"30. Révolte, ou complot en vue de révolte, commis par deux ou plusieurs personnes à bord d'un navire en haute mer, contre l'autorité du capitaine.

"31. Traite des Esclaves telle qu'elle est punie par les lois des deux pays.

"L'extradition aura également lieu pour complicité d'un des crimes ci-dessus mentionnés, pourvu que la complicité soit punissable par les lois des deux Parties Contractantes.

"Il dépendra de l'État requis d'accorder également l'extradition pour tout autre crime à raison duquel l'extradition peut avoir lieu d'après les lois en vigueur des deux Parties Contractantes.

" ARTICLE III.

"Chacun des deux Gouvernements aura liberté pleine et entière

up its own subjects to the other Government.

“ ARTICLE IV.

“ The extradition shall not take place if the person claimed on the part of the British Government, or the person claimed on the part of the Government of Monaco has already been tried and discharged or punished, or is still under trial within the territories of the two High Contracting Parties respectively, for the crime for which his extradition is demanded.

“ If the person claimed on the part of the British Government, or if the person claimed on the part of the Government of Monaco should be under examination, or is undergoing sentence under a conviction, for any other crime within the territories of the two High Contracting Parties respectively, his extradition shall be deferred until after he has been discharged, whether by acquittal or on expiration of his sentence, or otherwise.

“ ARTICLE V.

“ The extradition shall not take place if, subsequently to the commission of the crime, or the institution of the penal prosecution, or the conviction thereon, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the State applied to.

“ ARTICLE VI.

“ A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character.

“ ARTICLE VII.

“ A person surrendered can in no case be kept in prison, or be brought to trial in the State to which the surrender has been made, for any other crime or on account of any other matters than those for which the extradition shall have taken place, until he has been restored or had an opportunity of returning to the State by which he has been surrendered.

de refuser à l'autre l'extradition de ses propres sujets.

“ ARTICLE IV.

“ L'extradition ne sera pas accordée si l'individu réclamé par le Gouvernement du Royaume-Uni ou par celui de la Principauté de Monaco a déjà été jugé, acquitté ou puni, ou se trouve encore sous jugement, dans les territoires des deux Hautes Parties Contractantes respectivement, pour le crime à raison duquel l'extradition est demandée.

“ Si la personne réclamée par le Gouvernement du Royaume-Uni ou par celui de la Principauté de Monaco est en état de prévention ou si, ayant été condamnée, elle subit la peine qui lui a été infligée dans les territoires des deux Hautes Parties Contractantes respectivement, pour un autre crime, son extradition sera différée jusqu'à sa remise en liberté, soit qu'elle ait été acquittée, soit qu'elle ait purgé sa peine ou pour toute autre raison.

“ ARTICLE V.

“ L'extradition n'aura pas lieu si depuis la perpétration du crime, les poursuites ou la condamnation, la prescription des poursuites ou de la peine est acquise d'après les lois du pays auquel la demande est adressée.

“ ARTICLE VI.

“ Le criminel fugitif ne sera pas extradé si le délit pour lequel l'extradition est demandée est considéré comme un délit politique, ou si l'individu prouve que la demande d'extradition a été faite en réalité dans le but de le poursuivre ou de le punir pour un délit d'un caractère politique.

“ ARTICLE VII.

“ L'individu qui aura été livré ne pourra, en aucun cas, dans le pays auquel l'extradition a été accordée, être maintenu en état d'arrestation ou poursuivi pour aucun crime ou faits autres que ceux qui avaient motivé l'extradition, à moins qu'il n'ait été réintégré, ou n'ait eu l'occasion de retourner de lui-même dans l'État qui l'avait extradé.

"This stipulation does not apply to crimes committed after the extradition.

" ARTICLE VIII.

"The requisition for extradition shall be made in the following manner :—

"Applications on behalf of Her Britannic Majesty's Government for the surrender of a fugitive criminal in Monaco shall be made by Her Majesty's Consul in the Principality.

"Application on behalf of the Principality of Monaco for the surrender of a fugitive criminal in the United Kingdom shall be made by the Consul-General of Monaco in London.

"The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition, and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there.

"If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent Court of the State that makes the requisition for extradition.

"A sentence passed in *contumaciam* is not to be deemed a conviction, but a person so sentenced may be dealt with as an accused person.

" ARTICLE IX.

"If the requisition for extradition be in accordance with the foregoing stipulations, the competent authorities of the State applied to shall proceed to the arrest of the fugitive.

" ARTICLE X.

"If the fugitive has been arrested in the British dominions, he shall forthwith be brought before a competent Magistrate, who is to examine him and to conduct the preliminary investigation of the case, just as if the apprehension had taken place for a crime committed in the British dominions.

"Cette stipulation n'est pas applicable aux crimes commis après l'extradition.

" ARTICLE VIII.

"L'extradition sera demandée de la manière suivante :—

"La demande de la part du Gouvernement de Sa Majesté Britannique pour l'extradition d'un criminel réfugié dans la Principauté de Monaco, sera faite par le Consul de Sa Majesté accrédité près de Son Altesse Sérénissime.

"La demande de la part de la Principauté de Monaco pour l'extradition d'un criminel fugitif dans le Royaume-Uni sera faite par le Consul-Général de Monaco à Londres.

"La demande d'extradition d'un prévenu devra être accompagnée d'un mandat d'arrêt décerné par l'autorité compétente de l'État requérant, et des preuves qui, d'après les lois de l'endroit où le prévenu a été trouvé, justifieraient son arrestation si l'acte punissable y avait été commis.

"Si la demande d'extradition concerne une personne déjà condamnée, elle doit être accompagnée de l'arrêt de condamnation qui a été rendu contre le coupable par le Tribunal compétent de l'État requérant.

"Un arrêt, rendu par contumace ne sera pas considéré comme une condamnation, mais une personne ainsi condamnée pourra être traitée comme une personne poursuivie.

" ARTICLE IX.

"Si la demande d'extradition s'accorde avec les stipulations précédentes, les autorités compétentes de l'État requis procéderont à l'arrestation du fugitif.

" ARTICLE X.

"Si le fugitif est arrêté sur le territoire Britannique, il sera aussitôt amené devant un Magistrat compétent qui devra l'entendre et procéder à l'examen préliminaire de l'affaire de la même manière que si l'arrestation avait eu lieu pour un crime commis sur le territoire Britannique.

" In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the British dominions shall admit as valid evidence the sworn depositions or the affirmations of witnesses taken in Monaco, or copies thereof, and likewise the warrants and sentences issued therein, and certificates of, or judicial documents stating the fact of, a conviction, provided the same are authenticated as follows :—

" 1. A warrant must purport to be signed by a Judge, Magistrate, or officer of the Principality of Monaco.

" 2. Depositions or affirmations or the copies thereof must purport to be certified under the hand of a Judge, Magistrate, or officer of the Principality of Monaco, to be the original depositions or affirmations, or to be the true copies thereof, as the case may require.

" 3. A certificate of or judicial document stating the fact of a conviction must purport to be certified by a Judge, Magistrate, or officer of the Principality of Monaco.

" 4. In every case such warrant, deposition, affirmation, copy, certificate, or judicial document must be authenticated either by the oath of some witness, or by being sealed with the official seal and legalization of the Governor-General of the Principality of Monaco; but any other mode of authentication for the time being permitted by the law in that part of the British dominions where the examination is taken, may be substituted for the foregoing.

" ARTICLE XI.

" If the fugitive has been arrested in the Principality of Monaco, his surrender shall be granted if, upon examination by a competent authority it appears that the documents furnished by the British Government contain sufficient *prima facie* evidence to justify the extradition.

" The authorities of the Principality shall admit as valid evidence records drawn up by the British

" Les autorités de la Grande-Bretagne, quand elles procéderont à l'examen établi par les stipulations précédentes, devront admettre comme preuves entièrement valables les dépositions assermentées ou les affirmations faites à Monaco, ou les copies de ces pièces, de même que les mandats d'arrêt et les sentences rendues dans ce pays, ainsi que les certificats de condamnation ou les pièces judiciaires constatant le fait d'une condamnation, pourvu que ces documents soient rendus authentiques de la manière suivante :—

" 1. Un mandat doit être signé par un Juge, Magistrat, ou officier de la Principauté de Monaco.

" 2. Les dépositions ou affirmations ou les copies de ces pièces, doivent porter la signature d'un Juge, Magistrat, ou officier de la Principauté de Monaco, constatant que ces dépositions ou ces affirmations se trouvent être en expédition originale ou en copie vidimée selon le cas.

" 3. Un certificat de condamnation ou un document judiciaire constatant le fait d'une condamnation doit être certifié par un Juge, Magistrat, ou officier de la Principauté de Monaco.

" 4. Ces mandats, dépositions, affirmations, copies, certificats ou documents judiciaires doivent être rendus authentiques dans chaque cas, soit par le serment d'un témoin, soit par l'apposition du sceau officiel et la légalisation du Gouverneur-Général de la Principauté de Monaco; cependant, les pièces sus-énoncées pourront être rendues authentiques de toute autre manière qui serait reconnue par les lois locales en vigueur dans la partie du territoire Britannique, où l'examen de l'affaire aura lieu.

" ARTICLE XI.

" L'extradition d'un fugitif arrêté dans la Principauté de Monaco sera accordée, s'il résulte de l'examen qui en sera fait par une autorité compétente que les documents fournis par le Gouvernement Britannique contiennent des preuves *prima facie* suffisantes pour justifier l'extradition.

" Les autorités de la Principauté devront admettre comme preuves entièrement valables les procès-

authorities of the depositions of witnesses, or copies thereof, and records of conviction or other judicial documents or copies thereof: Provided that the said documents be signed or authenticated by an authority whose competence shall be certified by the seal of a Minister of State of Her Britannic Majesty.

verbaux des dépositions de témoins dressés par les autorités Britanniques, ou les copies de ces procès-verbaux; ainsi que les procès-verbaux des condamnations ou autres documents judiciaires, ou les copies de ces actes; pourvu que ces documents soient signés ou rendus authentiques par une autorité dont la compétence sera certifiée par le sceau d'un Ministre d'Etat de Sa Majesté Britannique.

“ARTICLE XII.

“The extradition shall not take place unless the evidence be found sufficient, according to the laws of the State applied to, either to justify the committal of the prisoner for trial, in case the crime had been committed in the territory of the said State, or to prove that the prisoner is the identical person convicted by the Courts of the State which makes the requisition, and that the crime of which he has been convicted is one in respect of which extradition could, at the time of such conviction, have been granted by the State applied to. In Her Britannic Majesty's dominions the fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison to await his surrender.

“ARTICLE XII.

“L'extradition n'aura lieu que dans le cas où les preuves fournies auront été trouvées suffisantes d'après les lois de l'Etat requis, soit pour justifier la mise sous jugement du prisonnier, dans le cas où le crime aurait été commis sur le territoire du dit Etat, soit pour constater l'identité du prisonnier avec l'individu condamné par les Tribunaux de l'Etat requérant, et prouver que le crime dont il a été reconnu coupable aurait pu causer son extradition par l'Etat requis à l'époque de sa condamnation. L'extradition du fugitif n'aura lieu, dans les territoires de Sa Majesté Britannique, qu'à l'expiration d'un terme de quinze jours à dater de son emprisonnement en vue de l'extradition.

“ARTICLE XIII.

“If the individual claimed by one of the two High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers, on account of other crimes or offences committed upon their respective territories, his extradition shall be granted to that State whose demand is earliest in date.

“ARTICLE XIII.

“Si l'individu réclamé par l'une des deux Hautes Parties Contractantes, en exécution du présent Traité, est aussi réclamé par une ou plusieurs autres Puissances, du chef d'autres crimes ou délits commis sur leurs territoires respectifs, son extradition sera accordée à l'Etat dont la demande est la plus ancienne en date.

“ARTICLE XIV.

“If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, or within such further time as the State applied to or the proper Tribunal thereof shall direct, the fugitive shall be set at liberty.

“ARTICLE XIV.

“Le fugitif sera mis en liberté si les preuves suffisantes à l'appui de la demande en extradition ne sont pas produites dans l'espace de deux mois, à partir du jour de l'arrestation ou de tel autre terme plus éloigné qui aura été indiqué par l'Etat requis ou le Tribunal compétent de cet Etat.

“ARTICLE XV.

“All articles seized which were in the possession of the person to be surrendered, at the time of his

“ARTICLE XV.

“Les objets saisis en la possession de l'individu réclamé au moment de son arrestation seront,

apprehension, shall, if the competent authority of the State applied to for the extradition has ordered the delivery thereof, be given up when the extradition takes place, and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof of the crime.

"ARTICLE XVI.

"All expenses connected with extradition shall be borne by the demanding State.

"ARTICLE XVII.

"Either of the High Contracting Parties who may wish to have recourse for purposes of extradition to transit through the territory of a third Power shall be bound to arrange the condition of transit with such third Power.

"ARTICLE XVIII.

"When in a criminal case of a non-political character either of the High Contracting Parties should think it necessary to take the evidence of witnesses residing in the dominion of the other, or to obtain any other legal evidence, a "Commission Rogatoire" to that effect shall be sent through the channel indicated in Article VIII., and effect shall be given thereto conformably to the laws in force in the place where the evidence is to be taken.

"ARTICLE XIX.

"All documents which shall be reciprocally communicated in execution of the present Treaty shall be accompanied by a French or English translation (certified to be correct by the Consul who transmits the document in accordance with Article VIII.), when they are not drawn up in the language of the country upon which the demand is made.

"The expense of such translations shall be borne by the demanding State.

"ARTICLE XX.

"The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of

si l'autorité compétente de l'Etat requis en a ordonné la remise, livrés lorsque l'extradition aura lieu; cette remise ne comprendra pas seulement les objets volés, mais encore tout ce qui peut servir de pièce de conviction.

"ARTICLE XVI.

"Toutes les dépenses occasionnées par une demande d'extradition seront à la charge de l'Etat requérant.

"ARTICLE XVII.

"Celle des Hautes Parties Contractantes qui voudrait recourir, pour l'extradition, au transit sur le territoire d'une tierce Puissance, aurait à en régler les conditions avec cette dernière.

"ARTICLE XVIII.

"Lorsque dans la poursuite d'une affaire pénale non politique, une des Hautes Parties Contractantes jugera nécessaire l'audition de témoins résidant dans les Etats de l'autre, ou tout autre acte d'instruction, une Commission Rogatoire sera envoyée à cet effet par la voie indiquée à l'Article VIII, et il y sera donné suite, en observant les lois du pays sur le territoire duquel l'acte d'instruction devra avoir lieu.

"ARTICLE XIX.

"Tous les actes et documents qui seront communiqués réciproquement en exécution du présent Traité, seront accompagnés d'une traduction Française ou Anglaise, certifiée exacte par le Consul qui transmet les documents conformément à l'Article VIII, lorsqu'ils ne seront point rédigés dans la langue du pays requis.

"Les frais occasionnés par ces traductions seront à la charge de l'Etat requérant.

"ARTICLE XX.

"Les stipulations du présent Traité seront applicables aux Colonies et possessions étrangères de

Her Britannic Majesty so far as the laws for the time being in force in such Colonies and foreign possessions respectively will allow.

"The requisition for the surrender of a fugitive criminal who has taken refuge in any of such Colonies or foreign possessions may be made to the Governor or chief authority of such Colony or possession by any person authorised to act in such Colony or possession as a Consular officer of the Principality of Monaco.

"Such requisition may be disposed of, subject always, as nearly as may be, and so far as the law of such Colony or foreign possession will allow to the provisions of this Treaty, by the said Governor or chief authority, who, however, shall be at liberty either to grant the surrender or to refer the matter to his Government.

"Her Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of criminals from Monaco who may take refuge within such Colonies and foreign possessions, on the basis, as nearly as may be, and so far as the law of such Colony or foreign possession will allow, of the provisions of the present Treaty.

"Requisitions for the surrender of a fugitive criminal emanating from any Colony or foreign possession of Her Britannic Majesty shall be governed by the rules laid down in the preceding Articles of the present Treaty.

"ARTICLE XXI.

"The present Treaty shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties at any time on giving to the other six months' notice of its intention to do so.

"The Treaty shall be ratified, and the ratifications shall be exchanged at Paris as soon as possible.

Sa Majesté Britannique, pour autant que faire se pourra d'après les lois en vigueur dans ces Colonies et possessions étrangères respectivement.

"La demande d'extradition d'un criminel qui s'est réfugié dans une de ces Colonies ou possessions étrangères pourra être faite au Gouverneur ou à l'autorité supérieure de cette Colonie ou possession, par toute personne autorisée à fonctionner dans cette Colonie ou possession comme autorité Consulaire de la Principauté de Monaco.

"Le Gouverneur ou l'autorité supérieure mentionné ci-dessus décidera à l'égard de telles demandes, en se conformant, autant que faire se pourra, d'après les lois de ces Colonies ou possessions étrangères, aux stipulations du présent Traité. Il sera toutefois libre d'accorder l'extradition ou de soumettre le cas à son Gouvernement.

"Il est réservé toutefois à Sa Majesté Britannique de faire, en se conformant autant que faire se pourra d'après les lois de ces Colonies ou possessions étrangères, aux stipulations du présent Traité, des arrangements spéciaux dans les Colonies ou possessions étrangères pour l'extradition de criminels de Monaco qui auraient trouvé un refuge dans ces Colonies ou possessions étrangères.

"Les demandes concernant l'extradition de criminels qui se sont échappés d'une des Colonies ou possessions étrangères de Sa Majesté Britannique seront traitées suivant les dispositions des Articles précédents du présent Traité.

"ARTICLE XXI.

"Le présent Traité sera exécutoire à dater du dixième jour après sa promulgation, dans les formes prescrites par les lois des deux pays. Chacune des Hautes Parties Contractantes pourra en tout temps mettre fin au Traité en donnant à l'autre six mois à l'avance avis de son intention.

"Il sera ratifié, et les ratifications en seront échangées à Paris aussitôt que faire se pourra.

"In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

"Done at Paris, the 17th day of December, 1891.

(L.S.)

(L.S.)

"En foi de quoi les Plénipotentiaires respectifs ont signé le présent Traité et y ont apposé le cachet de leurs armes.

"Fait à Paris, le 17 Décembre, 1891.

Edwin H. Egerton.

Le Baron du Charmel."

And whereas the ratifications of the said Treaty were exchanged at Paris on the seventeenth day of March, one thousand eight hundred and ninety-two.

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and in virtue of the authority committed to her by the said recited Acts, doth order, and it is hereby ordered, that from and after the twenty-third day of May, one thousand eight hundred and ninety-two, the said Acts shall apply in the case of Monaco, and of the said Treaty with His Serene Highness, the Prince of Monaco.

Provided always, and it is hereby further ordered, that the operation of the said Extradition Acts, 1870 and 1873,* shall be suspended within the Dominion of Canada so far as relates to Monaco, and to the said Treaty, and so long as the provisions of the Canadian Act aforesaid of 1886† continue in force, and no longer.

Herbert M. Suft.

(s) Netherlands.

1899. No. 83.

At the Court at Osborne House, Isle of Wight, the 2nd day of February, 1899.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.

Lord Privy Seal.

Duke of Marlborough.

Earl of Kintore.

Whereas by the Extradition Acts 1870 to 1895‡ it was * * * [*Here follows the first recital to the Order relating to Belgium, printed at p. 20 above, with the substitution of "Her Majesty" for "His Majesty."*]

And whereas a Treaty was concluded on the 26th day of September, 1898, between Her Majesty, and the Queen of the Netherlands, for the mutual extradition of fugitive criminals, which Treaty is in the terms following :—

"Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and Her Majesty the Queen of the Netherlands, having mutually resolved to conclude a new Treaty for the extradition of criminals, the said High

"Hare Majesteit de Koningin van het Vereenigd Koninkrijk van Groot-Britannië en Ierland, Keizerin van Indie, en Hare Majesteit de Koningin der Nederlanden, in gemeenschappelijk overleg overeen gekomen zijnde een nieuw verdrag te sluiten

* 33 & 34 Vict. c. 52; 36 & 37 Vict. c. 60.

† "The Extradition Act" (Revised Statutes of Canada, c. 142).

‡ 33 & 34 Vict. c. 52; 36 & 37 Vict. c. 60; 58 & 59 Vict. c. 33.

Contracting Parties have named as their Plenipotentiaries to conclude a Treaty for this purpose, that is to say :

“ Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, the Most Honourable Robert Arthur Talbot Gascoyne Cecil, Marquess of Salisbury, Earl of Salisbury, Viscount Cranborne, Baron Cecil, Peer of the United Kingdom, Knight of the Most Noble Order of the Garter, Member of Her Majesty's Most Honourable Privy Council, Her Majesty's Principal Secretary of State for Foreign Affairs, &c., &c. ;

“ And Her Majesty the Queen of the Netherlands, Alexander William Baron Schimmelpenninck van der Oye, Chargé d'Affaires, *ad interim*, of the Netherlands in London, Knight of the Order of Orange Nassau, &c., &c. ;

“ Who, having communicated to each other their respective Full Powers, found in good and due form, have agreed upon and concluded the following Articles :—

“ Article I.

“ The High Contracting Parties engage to deliver up to each other those persons who, being accused or convicted of a crime or offence committed in the territory of the one Party, shall be found within the territory of the other Party, under the circumstances and conditions stated in the present Treaty.

“ Article II.

“ The crimes or offences for which the extradition is to be granted are the following :—

“ 1. Murder, including infanticide, or attempt, or conspiracy to murder, including such crimes when directed against the Sovereign, his heir, or any other person whomsoever, provided that the crime is not of a political character.

“ 2. Manslaughter, including the manslaughter of a child.

“ 3. Assault occasioning actual bodily harm.

“ 4. Maliciously wounding or inflicting grievous bodily harm.

betreffende de uitlevering van misdadigers, hebben gezegde Hooge Contracteerende Partijen te dien einde tot Hoogstderzelver Gevolmachtigden benoemd te weten :

“ Hare Majesteit de Koningin van het Vereenigd Koninkrijk van Groot-Britannië en Ierland, Keizerin van Indië, den Heer Robert Arthur Talbot Gascoyne Cecil, Markies van Salisbury, Graaf van Salisbury, Burggraaf Cranborne, Baron Cecil, Pair van het Vereenigd Koninkrijk, Ridder van de Orde van den Kouseband, Lid van Harer Majesteit's Geheimen Raad, Harer Majesteit's voornaamsten Secretaris van Staat voor Buitenlandsche Zaken, enz. ;

“ En Hare Majesteit de Koningin der Nederlanden, Alexander Willem Baron Schimmelpenninck van der Oye, Tydelyk Zaakgelastigde der Nederlanden te Londen, Ridder der Orde van Oranje Nassau, enz., enz. ;

“ Die, na elkander hunne respectieve volmachten te hebben medege-deeld, welke in goeden en behoort-lijken vorm zijn bevonden, omtrent de volgende Artikelen zijn overeen-gekomen en deze hebben vastge-esteld :—

“ Artikel I.

“ De Hooge Contracteerende Partijen verbinden zich aan elkander uit te leveren alle personen, die beschuldigd van of veroordeeld wegens een misdrijf gepleegd op het grondgebied van de eene Partij, gevonden worden op het grondgebied van de andere Partij, onder de omstandigheden en voorwaarden in het tegenwoordig verdrag vermeld.

“ Artikel II.

“ De misdrijven, ter zake waarvan de uitlevering zal worden toegestaan zijn de volgende :—

“ 1. Moord, daaronder begrepen kindermoord, of poging of samenspanning tot moord. daaronder begrepen zoodanige misdrijven gericht tegen den Souverein, tegen diens erfgenaam, of tegen ieder ander persoon wien ook, mits het misdrijf geen staatkundig karakter draagt.

“ 2. Doodslag, daaronder begrepen kinderdoodslag.

“ 3. Mishandeling zwaar lichamel-ijk letsel ten gevolge hebbende.

“ 4. Verwonding met voorbedach-ten rade of het toebrengen van zwaar lichamelijk letsel.

"5. Counterfeiting or altering money, or uttering counterfeit or altered money.

"6. Forgery, counterfeiting or altering, or uttering what is forged, counterfeited or altered.

"7. Embezzlement; fraud by a bailee, banker, agent, factor, trustee, or director or member or public officer of any Company, made criminal by any law for the time being in force; or larceny.

"8. Malicious injury to property if the offence be indictable.

"9. Obtaining money, goods, or valuable securities by false pretences.

"10. Crimes against bankruptcy law.

"11. Perjury, or subornation of perjury.

"12. Rape.

"13. Carnal knowledge or any attempt to have carnal knowledge of a girl under 16 years of age.

"14. Indecent assault.

"15. Administering drugs or using instruments with intent to procure the miscarriage of a woman.

"16. Abduction.

"17. Child stealing.

"18. Kidnapping of minors and their false imprisonment.

"19. Burglary or house-breaking.

"20. Arson.

"21. Robbery with violence.

"22. Any malicious act done with intent to endanger the safety of a railway train.

"23. Threats by letter or otherwise, with intent to extort.

"24. Piracy by law of nations.

"25. Sinking or destroying a vessel at sea, or attempting to do so.

"26. Assaults on board a ship on the high seas, with intent to destroy life, or do grievous bodily harm.

"27. Revolt by two or more persons on board a ship on the high seas, against the authority of the master.

"28. Dealing in slaves in such a manner as to constitute a criminal offence against the laws of both States.

"5. Het namaken of vervalschen van muntspécien en muntpapier of het in omloop brengen van valsche of vervalschte muntspécien of muntpapier.

"6. Valschheid in geschriften, of het gebruik maken van de valsche of vervalschte geschriften.

"7. Verduistering of diefstal.

"8. Opzettelijke en ernstige beschadiging van goederen.

"9. Oplichting.

"10. Bedriegelijke handbreuk.

"11. Meineed of het uitlokken van meineed.

"12. Verachting.

"13. Het hebben van vleeschelijke gemeenschap met een meisje beneden den leeftijd van 16 jaar, of poging daartoe.

"14. Aanslag tegen de zeden.

"15. Het toedienen van middelen of het gebruiken van instrumenten met het doel de afdrijving der vrucht van eene vrouw te veroorzaken.

"16. Schaking.

"17. Wegvoering van kinderen.

"18. Oplichting van minderjarigen en hunne wederrechtelijke vrijheidsberooving.

"19. Inbraak.

"20. Opzettelijke brandstichting.

"21. Diefstal met geweld.

"22. Het opzettelijk doen ontstaan van gevaar voor een spoorrein.

"23. Bedreiging bij geschrifte onder eene bepaalde voorwaarde (Artikel 285 tweede lid Nederlandsch Wetboek van Strafrecht).

"24. Zeeroof.

"25. Het doen sinken of vernielen van een vartuig op zee, of poging daartoe.

"26. Mishandelingen, met het oogmerk om te dooden of zwaar lichamelijk letsel toe te brengen, gepleegd aan boord van een vaartuig in volle zee.

"27. Vezet van twee of meer personen tegen het gezag van den schipper, gepleegd aan boord van een vaartuig in volle zee.

"28. Het drijven van slavenhandel mits opleverende een strafbaar feit volgens de wetten der beide Staten.

" Extradition is also to be granted for participation in any of the aforesaid crimes, provided such participation be an extradition crime by the laws of the State applied to.

" In the foregoing cases extradition shall take place only when the crime, if committed within the jurisdiction of the country on which the claim for surrender is made, would constitute an extradition crime by the laws of that country.

" Extradition may also be granted at the discretion of the State applied to in respect of any other crime for which, according to the laws of both the Contracting Parties for the time being in force the grant can be made.

" Article III.

" Either Government may, in its absolute discretion, refuse to surrender its own subjects to the other Government.

" Article IV.

" The extradition shall not take place if the person claimed on the part of the British Government, or the person claimed on the part of the Netherland Government, has already been tried and discharged or punished, or is actually upon his trial, within the territory of the other of the two High Contracting Parties, for the crime for which his extradition is demanded.

" If the person claimed on the part of the British Government, or if the person claimed on the part of the Netherland Government, should be under examination, or is undergoing sentence under a conviction, for any other crime within the territories of the two High Contracting Parties respectively, his extradition shall be deferred until after he has been discharged, whether by acquittal, or on expiration of his sentence, or otherwise.

" Article V.

" The extradition shall not take place if, subsequently to the commission of the crime, or the

" Uitlevering wordt ook toegestaan wegens medeplichtigheid aan een der bovengenoemde misdrijven, wanneer voor die medeplichtigheid kan worden uitgeleverd volgens de wetten van den Staat, aan welken de uitlevering wordt aangevraagd.

" In de bovengenoemde gevallen zal de uitlevering alleen plaats hebben, wanneer het misdrijf, indien het ware gepleegd binnen het rechtsgebied van het land, waaraan de aanvraag tot uitlevering is gedaan, volgens de wetten van dat land tot uitlevering aanleiding zou kunnen geven.

" Uitlevering zal ook kunnen worden toegestaan, naar het goeddunken van den Staat, aan welken de uitlevering wordt aangevraagd, ten opzichte van eenig ander misdrijf waarvoor, overeenkomstig de wetten der beide Contracteerende Partijen op dat tijdstip van kracht, de toestemming kan worden verleend.

" Artikel III.

" Elke Regeering mag, geheel naar eigen goeddunken, weigeren zijne eigen onderdanen aan de andere Regeering uit te leveren.

" Artikel IV.

" De uitlevering zal geen plaats hebben, indien de persoon door de Britsche Regeering opgeëischt, of de persoon door de Nederlandsche Regeering opgeëischt, ter zake van het misdrijf, waarvoor zijne uitlevering aangevraagd wordt, reeds heeft terecht gestaan, en vrijgesproken, van rechtsvervolgung ontlagen of gestraft is, of eene strafvervolgung tegen hem aanhangig is op het grondgebied van de andere Hooge Contracteerende Partij.

" Indien de persoon door de Britsche Regeering opgeëischt, of indien de persoon de Nederlandsche Regeering opgeëischt, wegens een ander misdrijf, op het grondgebied van de andere Hooge Contracteerende Partij gepleegd, wordt vervolgd, of is veroordeeld, zal zijne uitlevering worden uitgesteld tot dat hij is ontlagen, hetzij ten gevolge van vrijspraak of ontlag van rechtsvervolgung, hetzij hij zijne straf heeft ondergaan, hetzij op andere wijze.

" Artikel V.

" De uitlevering zal geen plaats hebben indien, na het plegen van het misdrijf, of het instellen van

institution of the penal prosecution or the conviction thereon, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the State applied to.

“Article VI.

“A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove that the requisition for his surrender has, in fact, been made with a view to try or punish him for an offence of a political character.

“Article VII.

“A person surrendered may in no case be kept in prison or be brought to trial in the State to which the surrender has been made, for any other crime, or on account of any other matters, than those for which the extradition shall have taken place, until he has been restored, or had an opportunity during one month of returning, to the State by which he has been surrendered.

“This stipulation does not apply to crimes committed after the extradition.

“Article VIII.

“The requisition for extradition shall be made through the Diplomatic Agents of the High Contracting Parties respectively.

“The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition, and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there.

“If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent Court of the State that makes the requisition for extradition.

eene strafrechterlijke vervolging, of de daarop gevolgde veroordeeling, de vervolging of de straf verjaard is, volgens de wetten van den Staat, aan welken de uitlevering wordt aangevraagd.

“Artikel VI.

“Een voortvluchtig misdadiger zal niet uitgeleverd worden indien het strafbaar feit, ter zake waarvan zijne uitlevering wordt gevraagd, een staatkundig karakter draagt, of indien hij het bewijs levert, dat de aanvraag om zijne uitlevering opzettelijk is gedaan met de bedoeling om hem ter zake van een strafbaar feit van staatkundigen aard te vervolgen of te straffen.

“Artikel VII.

“De persoon, wiens uitlevering heeft plaats gehad, mag in geen geval in hechtanis gehouden of vervolgd worden in den Staat aan welken de uitlevering heeft plaats gehad, ter zake van eenig ander misdrijf, of wegens eenig ander feit, dan dat waarvoor de uitlevering geschied is, alvorens hij is teruggekeerd of gedurende eene maand de gelegenheid heeft gehad terug te keeren naar den Staat door welken hij uitgeleverd is.

“Deze bepaling is niet toepasselijk op misdrijven na de uitlevering gepleegd.

“Artikel VIII.

“De aanvraag tot uitlevering zal worden gedaan respectievelijk door de Diplomatieke Agenten der Hooge Contracteerende Partijen.

“De aanvraag tot uitlevering van een beschuldigde moet vergezeld zijn van een bevel van gevangenneming, afgegeven door de bevoegde overheid van den Staat, welke de uitlevering aanvraagt, en van zoodanige stukken als welke, overeenkomstig de wetten der plaats, waar de beschuldigde gevonden is, zijne aanhouding zouden wettigen, indien het misdrijf aldaar gepleegd ware.

“Indien de aanvraag eenen veroordeelde betreft, moet zij vergezeld zijn van het veroordeelend vonnis of arrest, ten laste van den veroordeelde gewezen door den bevoegden rechter van den Staat, welke de uitlevering aanvraagt.

"A sentence passed in *contumaciam* is not to be deemed a conviction, but a person so sentenced may be dealt with as an accused person.

"Article IX.

"If the requisition for extradition be in accordance with the foregoing stipulations, the competent authorities of the State applied to shall proceed to the arrest of the fugitive.

"Article X.

"Pending the presentation of the demand for extradition through the Diplomatic channel, a fugitive criminal may be apprehended under a warrant issued by any Police Magistrate, Justice of the Peace, or other competent authority in either country, on such information or complaint, and such evidence, or after such proceedings, as would, in the opinion of the authority issuing the warrant, justify the issue of a warrant if the crime had been committed or the person convicted in that part of the dominions of the two Contracting Parties in which the Magistrate, Justice of the Peace, or other competent authority exercises jurisdiction; provided, however, that in the United Kingdom the accused shall, in such case, be sent as speedily as possible before a Magistrate. He shall, in accordance with this Article, be discharged, as well in the Netherlands as in the United Kingdom, if within the term of twenty days a requisition for extradition shall not have been made by the Diplomatic Agent of the demanding country in accordance with the stipulations of this Treaty. The same rule shall apply to the cases of persons accused or convicted of any of the crimes or offences specified in this Treaty, and committed on the high seas on board any vessel of either country which may come into a port of the other.

"Article XI.

"If the fugitive have been arrested in the British dominions he shall

"Een vonnis bij verstek wordt niet geacht te zijn eene veroordeeling, maar een persoon, tegen wien zoodanig vonnis is gewezen, mag worden beschouwd als een beschuldigde.

"Artikel IX.

"Wanneer de aanvraag tot uitlevering overeenkomstig de voorgaande bepalingen is geschied, zal de bevoegde macht in den Staat, aan welken de aanvraag gedaan is, de noodige maatregelen nemen tot inhechtenstelling van den voortvluchtige.

"Artikel X.

"In afwachting van de aanvraag om uitlevering langs Diplomatieken weg, kan de voortvluchtige in hechtenis worden genomen krachtens een bevel afgegeven door een 'Police Magistrate, Justice of the Peace,' of andere bevoegde overheid in elk der beide landen, op zoodanige aangifte of klacht en zoodanige bewijstukken, of na zoodanig onderzoek als, naar het oordeel van de autoriteit, die het bevel verleent, termen tot het verleen daarvan zou opleveren, indien het misdrijf gepleegd of de persoon veroordeeld ware binnen het ressort van het gebied der twee Contracteerende Partijen, waarover de 'Magistrate,' 'Justice of the Peace,' of andere bevoegde autoriteit rechtamacht uitoefent; met dien verstande evenwel dat, in het Vereenigd Koninkrijk de beschuldigde in dat geval zoo spoedig mogelijk voor een 'Magistrate' zal worden gebracht. Hij zal, overeenkomstig dit Artikel, ontlagen worden, zoowel in Nederland als in het Vereenigd Koninkrijk, indien binnen twintig dagen geene aanvraag tot uitlevering door den Diplomatieken vertegenwoordiger van het land dat de uitlevering aanvraagt is gedaan overeenkomstig de bepalingen van dit verdrag. Dezelfde regel zal worden toegepast in de gevallen dat personen zijn beschuldigd of veroordeeld ter zake van een der misdrijven in dit verdrag vermeld, en gepleegd in volle zee aan boord van een vaartuig van een der beide landen, hetwelk mocht komen in eene haven van het andere land.

"Artikel XI.

"Wanneer de voortvluchtige op Britsch grondgebied is aangehouden

forthwith be brought before a competent Magistrate, who is to examine him, and to conduct the preliminary investigation of the case, just as if the apprehension had taken place for a crime committed in the British dominions.

"In the examination which they have to make in accordance with the foregoing stipulations, the authorities of the British dominions shall admit as valid evidence depositions or statements on oath or the affirmations of witnesses taken in the Netherlands, or copies thereof, and likewise the warrants and sentences issued therein, and certificates of, or judicial documents stating the fact of, a conviction, provided the same are authenticated as follows :—

"1. A warrant must purport to be signed by a Judge, Magistrate, or officer of the Netherlands.

"2. Depositions, or affirmations, or the copies thereof, must purport to be certified under the hand of a Judge, Magistrate, or officer of the Netherlands, to be the original depositions or affirmations, or to be the true copies thereof, as the case may require.

"3. A certificate of, or judicial document stating the fact of, a conviction must purport to be certified by a Judge, Magistrate, or officer of the Netherlands.

"4. In every case such warrant, deposition, affirmation, copy, certificate, or judicial document must be authenticated either by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of State of the Netherlands; but any other mode of authentication for the time being permitted by the law in that part of the British dominions where the examination is taken may be substituted for the foregoing.

"Article XII.

"If the fugitive have been arrested in the dominions of the Netherlands the officer of justice shall prefer a requisition within three days after

zal hij oogenblikkelijk worden gebracht voor een bevoegd 'Magistrate' die hem verhoort en de zaak voorloopig onderzoekt, evenals of de aanhouding had plaats gehad ter zake van een misdrijf gepleegd op Britsch grondgebied.

"Bij het onderzoek hetwelk de Britsche autoriteiten overeenkomstig de voorgaande bepalingen moeten instellen, zullen zij als wettige bewijstukken aannemen beeedigde klachten of opgaven of getuigeverklaringen in Nederland afgelegd of gedaan, of afschriften daarvan, en eveneens de bevelschriften en vonnissen aldaar ter zake uitgevaardigd of gewezen, en stukken of gerechtelijke akten, waaruit blijkt van de veroordeeling, mits dezelve zijn gewaarmerkt als volgt :—

"1. Een bevelschrift moet inhouden de verklaring van te zijn geteekend door een Nederlandsch rechter, Officier van Justitie of andere bevoegde autoriteit.

"2. Klachten of verklaringen, of de afschriften daarvan, moeten de verklaring inhouden van te zijn gewaarmerkt door een Nederlandsch rechter, Officier van Justitie of andere bevoegde autoriteit, als te zijn het origineel of in de gevallen waarin zulks noodzakelijk is, het eensluidend afschrift daarvan.

"3. Een stuk of gerechtelijke akte, constateerende de veroordeeling, moet de verklaring inhouden dat het is gewaarmerkt door een Nederlandschen Rechter, Officier van Justitie of andere bevoegde autoriteit.

"4. In ieder geval moet van zulk een bevelschrift, klacht, verklaring, afschrift, stuk of gerechtelijke akte de echtheid worden verzekerd, hetzij door een beeedigde getuigeverklaring, hetzij door het daaraan gehecht officieel zegel van den Minister van Justitie, of van een ander Hoofd van een Ministerieel Departement in Nederland; doch hiervoor kan in de plaats treden eenige andere wijze van waarmaking, welke op dat tijdstip geoorloofd is volgens de wet van dat gedente van het Britsche grondgebied, waar het onderzoek plaats heeft.

"Artikel XII.

"Wanneer de voortvluchtige op Nederlandsch grondgebied is aangehouden requireert de Officier van Justitie binnen drie dagen na de

the arrest, or, if the arrest have not taken place, or if it have taken place prior to the application for extradition, then within three days after the receipt of authority for that purpose from the Netherland Government in order that the person claimed may be interrogated by the Court, and that it may express its opinion as to the grant or refusal of extradition.

"Within fourteen days after the interrogatory the Court shall forward its opinion and its decision, with the papers in the case, to the Minister of Justice.

"The extradition shall only be granted on the production, either in original or in authenticated copy—

"1. Of a conviction ; or,

"2. (a.) Of a warrant of arrest (which, by the law of the British dominions, is the only document which is granted when it is adjudged upon evidence taken on oath that the accused ought to be taken into custody), issued in the form prescribed by British law, and indicating the offence in question sufficiently to enable the Netherland Government to decide whether it constitutes, in contemplation of Netherland law, a case provided for by the present Treaty : and

"(b.) Of the evidence.

"In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the Netherland dominions shall admit as valid evidence depositions or statements on oath, or the affirmations of witnesses taken in the British dominions, or copies thereof, and likewise the warrants and sentences issued therein, and certificates of, or judicial documents stating the fact of, a conviction, provided the same are authenticated as follows :—

"1. A warrant must purport to be signed by a Judge, Magistrate, or officer of the British dominions.

"2. Depositions or affirmations, or the copies thereof, must purport to be certified under the hand of a Judge, Magistrate, or officer of the British dominions, to be the original

aanhouding, of, zoo de aanhouding niet heeft plaats gehad of reeds vóór de aanvraag tot uitlevering is geschied, binnen drie dagen na daartoe te zijn aangeschreven door de Nederlandsche Regeering, dat de opgeëischte persoon door de rechtbank worde gehoord, en dat deze haar advies uitbrengt over het al of niet toestaan der uitlevering.

"Binnen veertien dagen na het verhoor zendt de rechtbank haar advies en hare beslissing, met de tot de zaak behorende stukken, aan den Minister van Justitie.

"De uitlevering zal alleen worden toegestaan op vertoon van het origineel of van een gewaarmerkt afschrift—

"1. Van een veroordeelend vonnis of—

"2. (a.) Van een bevelschrift van gevangenneming (hetwelk volgens de wet van het Britsche Rijk het eenige stuk is dat wordt afgegeven wanneer op grond van onder eede afgelegde getuigeverklaringen bij rechterlijke uitspraak is beslist, dat de beschuldigde in bewaring behoort te worden gesteld), afgegeven in den vorm, door de Britsche wetgeving voorgeschreven, en waarbij het feit waarvan sprake is op zoodanige wijze is omschreven, dat de Nederlandsche Regeering in staat zij te beslissen of het, volgens de Nederlandsche wet, een der gevallen oplevert, in het tegenwoordige verdrag voorzien ; en

"(b.) Van de bewijsstukken.

"Bij het onderzoek, hetwelk de Nederlandsche autoriteiten overeenkomstig de voorgaande bepalingen moeten instellen, zullen zij als wettige bewijsstukken aannemen, beëdigde klachten of opgaven, of getuigeverklaringen in het Britsche Rijk afgelegd of gedaan, of afschriften daarvan, en eveneens de bevelschriften en vonnissen aldaar ter zake uitgevaardigd of gewezen, en stukken of gerechtelijke akten, waaruit blijkt van de veroordeeling, mits dezelve zijn gewaarmerkt als volgt :—

"1. Een bevelschrift moet inhouden de verklaring van te zijn geteekend door een 'Judge,' 'Magistrate,' of 'Officer' van het Britsche Rijk.

"2. Klachten of verklaringen of de afschriften daarvan, moeten de verklaring inhouden van te zijn gewaarmerkt door een 'Judge,' 'Magistrate,' of 'Officer' van het

depositions or affirmations or to be true copies thereof, as the case may require.

"3. A certificate of, or judicial document stating the fact of, a conviction, must purport to be certified by a Judge, Magistrate, or officer of the British dominions.

"4. In every case such warrant, deposition, affirmation, copy certificate, or judicial document must be authenticated either by the oath of some witness, or by being sealed with the official seal of one of the Principal Secretaries of State, or some other Minister of State of the British dominions, but any other mode of authentication for the time being permitted by law in that part of the dominions of the Netherlands where the examination is taken may be substituted for the foregoing.

" Article XIII.

"The extradition shall not take place unless the evidence be found sufficient, according to the laws of the State applied to, either to justify the committal of the prisoner for trial, if the crime had been committed in the territory of the said State, or to prove that the prisoner is the identical person convicted by the Courts of the State which makes the requisition, and that the crime of which he has been convicted is one in respect of which extradition could, at the time of such conviction, have been granted by the State applied to. The fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison to await his surrender.

" Article XIV.

"If the individual claimed by one of the two High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers, on account of other crimes or offences committed upon their respective territories, his

Britsche Rijk, als te zijn het origineel, of in de gevallen waarin zulks noodzakelijk is, het eensluidend afschrift daarvan.

"3. Een stuk of gerechtelijke akte, constateerende de veroordeeling, moet de verklaring inhouden dat het is gewaarmerkt door een 'Judge,' 'Magistrate,' of 'Officer' van het Britsche Rijk.

"4. In ieder geval moet van zulk een bevelschrift, klacht, verklaring, afschrift, stuk, of gerechtelijke akte de echtheid worden verzekerd hetzij door een beëdigde getuigenverklaring, hetzij door het daaraan gehecht officieel zegel van een van de 'Principal Secretaries of State,' of eenig ander 'Minister of State' van het Britsche Rijk; doch hiervoor kan in de plaats treden eenig andere wijze van waarmerking, welke op dat tijdstip geoorloofd is volgens de wet van dat gedeelte van het Nederlandsch grondgebied, waar het onderzoek plaats heeft.

" Artikel XIII.

"De uitlevering zal geen plaats vinden, tenzij er voldoende bewijs bestaat, volgens de wetten van den Staat, aan welken de uitlevering is aangevraagd, hetzij om eene verwijzing naar de openbare terechtzitting terechtvaardigen, indien het misdrijf zou zijn gepleegd binnen het grondgebied van bedoelden Staat, hetzij om de zekerheid te verschaffen dat de aangehoudene dezelfde persoon is, die door de rechtbank van den Staat, welke de aanvraag doet, veroordeeld is, en dat het misdrijf, ter zake waarvan hij is veroordeeld, behoort tot de zoodanige waarvoor, op het tijdstip van die veroordeeling, uitlevering had kunnen worden toegestaan door den Staat, aan welken de uitlevering is aangevraagd. De voortvluchtige middadiger zal niet worden uitgeleverd, alvorens de termijn van vijftien dagen is verstreken sedert den dag dat hij in afwachting van zijne uitlevering is bewaring is gesteld.

" Artikel XIV.

"Wanneer de uitlevering van een persoon, krachtens het tegenwoordig verdrag door een der Hooge Contracteerende Partijen opgeëischt, eveneens door een of meer andere Staten wordt aangevraagd, op grond van andere misdrijven op hem

extradition shall be granted to that State whose demand is earliest in date

respectievelijk grondgebied gepleegd, zal zijne uitlevering worden toegestaan aan dien Staat, welke het eerst de aanvraag daartoe heeft gedaan.

“Article XV.

“All articles seized which were in the possession of the person to be surrendered at the time of his apprehension, shall, if the competent authority of the State applied to for the extradition has ordered the delivery thereof, be given up when the extradition takes place, and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof of the crime.

“Artikel XV.

“Al de in beslag genomen goederen, welke zich op het oogenblik zijner aanhouding in het bezit van den uit te leveren persoon bevonden, zullen, indien de bevoegde overheid van den Staat, aan welken de uitlevering wordt aangevraagd, de overgave daarvan bevolen heeft, worden overgegeven op het oogenblik, waarop de uitlevering plaats heeft, en die overgave zal zich uitstrekken niet alleen tot de door misdrijf verkregen voorwerpen maar tot alles wat tot bewijs van het misdrijf kan dienen.

“Article XVI.

“The respective Governments mutually renounce all claim for the repayment of expenses incurred by them in the arrest and maintenance and transport of the person to be surrendered, and all other expenses which may be incurred within the limits of their respective territories until the person to be surrendered is placed on board ship, together with the expenses of giving up and returning all seized articles and of sending and returning the papers containing proof of the crime, or other documents, and they reciprocally agree to bear all such expenses themselves.

“Artikel XVI.

“De beide Regeeringen doen over en weer afstand van alle terugvordering van kosten, door haar gemaakt voor de aanhouding, gevangenhouding en het transport van den uit te leveren persoon, en van alle andere kosten, welke mochten worden gemaakt binnen de grenzen van haar respectievelijk. grondgebied, totdat de uit te leveren persoon aan boord is gebracht, benevens van de kosten, veroorzaakt door het over en weer zenden van al de in beslag genomen voorwerpen en van papieren, inhoudende het bewijs van het misdrijf, of van andere bescheiden. Zij stemmen er wederkeerig in toe al die kosten zelve te dragen.

“The above stipulations, however, shall not apply to extradition to and from Canada, as regards which Colony all the expenses shall be borne by the demanding State.

“De bovenbedoelde bepalingen zijn echter niet van toepassing bij de uitlevering naar en uit Canada. Met betrekking tot deze Kolonie zullen alle kosten worden gedragen door den Staat, welke de uitlevering aan vraagt.

“The person to be extradited shall be sent to the port which the Diplomatic or Consular Agent of the demanding State shall indicate.

“De uit te leveren persoon zal worden gezonden naar de haven, welke de Diplomatieke of Consulaire Agent van den aanvragenden Staat aanwijst.

“Article XVII.

“If in any criminal matter pending in any Court or Tribunal of one of the two countries it is thought desirable to take the evidence of any witness in the other, such evidence may be taken by the judicial authorities in accordance with the laws in force on this subject in the country

“Artikel XVII.

“Wanneer het in een bij eenig hof of rechtbank van een der beide landen aanhangige strafzaak wenschelijk geoordeeld wordt een getuige in het andere land te hooren, zal zoodanig verhoor plaats hebben voor de rechterlijke overheid, overeenkomstig de wet, ten deze van

where the witness may be; and any expenses incurred in taking such evidence shall be defrayed by the country in which it is taken.

kracht in het land, waar de getuig-
sich bevindt; en de kosten tenge-
volge van zoodanig verhoor gemaakt,
zullen worden gedragen door het
land waar dit heeft plaats gehad.

"Article XVIII.

"The stipulations of the present Treaty shall apply to the Colonies and foreign possessions of the two High Contracting Parties, but being based upon the legislation of the mother country, shall only be observed on either side so far as they may be compatible with the laws in force in those Colonies or possessions.

"The demand for the extradition of an offender who has taken refuge in a Colony or foreign possession of either Contracting Party may also be made directly to the Governor or principal functionary of that Colony or possession by the Governor or principal functionary of a Colony or possession of the other Contracting Party when the two Colonies or foreign possessions are situated in Asia, Australia (including New Zealand and Tasmania), the Pacific and Indian Oceans, or South or East Africa.

"The same rule shall be followed if the two Colonies or foreign possessions are situated in America (including the West India Islands).

"The said Governors or principal functionaries shall have the power either of granting the extradition or of referring the question to their Government.

"In all other cases, the demand for extradition shall be made through the Diplomatic channel.

"The period of provisional arrest provided for in Article X shall for the purposes of this Article be extended to sixty days.

"Article XIX.

"From the day when the present Treaty shall come into force the Treaty of Extradition between the two countries of the 19th June, 1874, shall cease to have effect; but the present Treaty shall apply to all

"Artikel XVIII.

"De bepalingen van het tegenwoordige verdrag zullen van toepassing zijn op de Koloniën en overzeesche bezittingen der beide Hooge Contracteerende Partijen, doch, daar zij gegrond zijn op de wetgeving van het moederland, zullen zij van weerszijden slechts worden nagekomen voor zoover zij verenigbaar zijn met de wetten in die Koloniën of bezittingen van kracht.

"De aanvraag tot uitlevering van een misdadiger die de wijk heeft genomen naar eene Kolonie of overzeesche bezitting van een der Contracteerende Partijen, kan ook rechtstreeks worden gedaan aan den Gouverneur of ander hoofd van die Kolonie of bezitting door den Gouverneur of ander hoofd van eene Kolonie of bezitting van de andere Contracteerende Partij, wanneer de twee Koloniën of overzeesche bezittingen zijn gelegen in Azië, Australië (daaronder begrepen Nieuw-Zeeland en Tasmania) den Stillen en den Indischen Oceaan, of Zuid of Oost Afrika.

"Deselfde regel zal worden toegepast wanneer de beide Koloniën of overzeesche bezittingen zijn gelegen in Amerika (daaronder begrepen de West-Indische Eilanden).

"De bedoelde Gouverneurs of andere hoofden zullen de bevoegdheid hebben hetzij de uitlevering toe te staan, hetzij de zaak ter beslissing over te brengen aan hunne Regeering.

"In alle andere gevallen zal de aanvraag tot uitlevering langs Diplomatieken weg geschieden.

"De termijn voor voorloopige aanhouding, vastgesteld in Artikel X, zal, voor de toepassing van dit Artikel, worden gesteld op zestig dagen.

"Artikel XIX.

"Te rekenen van den dag van inwerkingtreding van het tegenwoordig verdrag zal het verdrag van uitlevering tusschen de twee landen van 19 Juni, 1874, ophouden van kracht te zijn; het tegenwoordig

crimes within the Treaty, whether committed before or after the day when it comes into force.

verdrag zal echter toepasselijk zijn op alle misdrijven hierin vermeld, hetzij deze zijn gepleegd vóór, hetzij ná dan dag waarop het in werking treedt.

"Article XX.

"The present Treaty shall be ratified, and the ratifications shall be exchanged as soon as possible.

"The Treaty shall come into force three months after the exchange of the ratifications. It may be terminated by either of the High Contracting Parties at any time on giving to the other six months' notice of its intention to do so.

"In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

"Done in duplicate at London, this 26th day of September, 1898.

"Artikel XX.

"Het tegenwoordig verdrag zal worden bekrachtigd, en de akten van bekrachtiging er van zullen zoo spoedig mogelijk worden uitgewisseld.

"Het verdrag zal in werking treden drie maanden nadat de akten van bekrachtiging zullen zijn uitgewisseld. Het zal te allen tijde door elke der Hooge Contracteerende Partijen kunnen worden opgezegd door aan de andere zes maanden te voren daarvan kennis te geven.

"Ten blijke waarvan de wederzijdsche Gevolmaachtigden het hebben onderteekend en van hun zegel voorzien.

"Gedaan in dubbel te Londen den 26 September, 1898.

(Signed)

"*Salisbury.*

"*Schimmelpenninck v. d. Oye.*"

And whereas the ratifications of the said Treaty were exchanged at London on the 14th day of December, 1898.

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and in virtue of the authority committed to Her by the said recited Acts, doth order, and it is hereby ordered, that from and after the fourteenth day of March, 1899, the said Acts shall apply in the case of the Netherlands, and of the said Treaty with the Queen of the Netherlands :

Provided always that the operation of the said Acts shall be and remain suspended within the Dominion of Canada so long as an Act of the Parliament of Canada passed in 1886,* and entitled "An Act respecting the extradition of Fugitive Criminals," shall continue in force there, and no longer.

A. W. FitzRoy.

* "The Extradition Act" (Revised Statutes of Canada, c. 142).

(t) Portugal.

1894. No. 102

At the Court at Windsor, the 3rd day of March, 1894.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.
Marquess of Ripon.
Earl Spencer.

Mr. Gladstone.
Sir William Vernon
Harcourt.

Whereas * * * [*Here follow the first three recitals to the Order relating to the Argentine Republic, printed at p. 1 above.*]

And whereas a treaty was concluded on the 17th day of October, 1892, between Her Majesty and His Majesty the King of Portugal, for the mutual extradition of fugitive criminals, which treaty is in the terms following:—*

" Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Most Faithful Majesty the King of Portugal and of the Algarves, having judged it expedient, with a view to the better administration of justice and to the prevention of crime within their respective territories, that persons charged with or convicted of the crimes hereinafter enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up, the said High Contracting Parties have named as their Plenipotentiaries to conclude a Treaty for this purpose, that is to say:

" Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, Sir George Glynn Petre, Knight Commander of the Most Distinguished Order of St. Michael and St. George, Companion of the Most Honourable Order of the Bath, Her Majesty's Envoy Extraordinary and Minister Plenipotentiary at the Court of His Most Faithful Majesty, &c.; and

" Sua Magestade a Rainha do Reino Unido da Grã-Bretanha e Irlanda, Imperatriz da India, e Sua Magestade Fidelissima o Rei de Portugal e dos Algarves, julgando conveniente para melhorar a administração da justiça e obstar á perpetração de crimes nos seus respectivos territorios, que os individuos accusados ou condemnados por algum dos crimes abaixo indicados, e foragidos da justiça, sejam, dadas certas circumstancias, reciprocamente entregues, nomearam seus Plenipotenciarios para a celebração d'um Tratado com este intuito, a saber :

" Sua Magestade a Rainha do Reino Unido da Grã-Bretanha e Irlanda, Imperatriz da India, o Sir George Glynn Petre, Commendador da Muito Distincta Ordem de São Miguel e São Jorge, Cavalleiro da Muito Nobre Ordem do Banho, seu Enviado Extraordinario e Ministro Plenipotenciario na Côrte de Sua Magestade Fidelissima, &c.; e

* See Protocol of November 30, 1892, printed at p. 189 below, providing that this Treaty does not apply to extradition between British and Portuguese India.

"His Most Faithful Majesty the King of Portugal and of the Algarves, Dom Antonio Ayres de Gouvêa, Councillor of His Majesty, Peer of the Realm, Bishop of Bethsaida, retired Professor of the University of Coimbra, His Majesty's Minister and Secretary of State for Foreign Affairs, &c. ;

"Who, having communicated to each other their respective Full Powers, found in good and due form, have agreed upon and concluded the following Articles :—

"ARTICLE I.

"The High Contracting Parties engaged to deliver up to each other those persons who, being accused or convicted of a crime or offence committed in the territory of the one Party, shall be found within the territory of the other Party, under the circumstances and conditions stated in the present Treaty.

"ARTICLE II.

"The crimes or offences for which the extradition is to be granted are the following :—

"1. Murder (including assassina-tion, infanticide, and poisoning), or attempt or conspiracy to murder.

"2. Manslaughter.

"3. Maliciously wounding or inflicting grievous bodily harm.

"4. Assault occasioning actual bodily harm.

"5. Counterfeiting or altering money, either metallic or of any other kind representing the first named, or uttering counterfeit or altered money of any of those kinds.

"6. Knowingly making any instrument, tool, or engine adapted and intended for counterfeiting coin.

"7. Forgery, counterfeiting or altering, or uttering what is forged or counterfeited or altered.

"8. Embezzlement or larceny.

"Sua Magestade Fidelissima El-Rei de Portugal e dos Algarves, a Dom Antonio Ayres de Gouvêa, do seu Conselho, Par do Reino, Bispo de Bethsaida, lente Jubilado da Universidade de Coimbra, seu Ministro e Secretario de Estado dos Negocios Estrangeiros, &c. '

"Os quaes, tendo trocado os seus respectivos Plenos Poderes, que acharam em bôa e devida forma, convieram e assentaram nos seguintes Artigos :—

"ARTIGO I.

"As Altas Partes Contractantes compromettem-se á reciproca entrega dos individuos que, accusados ou condemnados por crime ou delicto commettido no territorio d'uma das Partes, se acharem no territorio da outra, nos termos e condições estipuladas no presente Tratado.

"ARTIGO II.

"Os crimes ou delictos pelos quaes ha de conceder-se extradição são os seguintes :—

"1. Homicidio voluntario (incluido homicidio com premeditação, infanticidio, e envenenamento), tentativa ou conluio para assassinar.

"2. Homicidio simples.

"3. Ferimentos voluntarios ou grave lesão corporal.

"4. Aggressão da qual resultasse de facto lesão corporal.

"5. Falsificação ou adulteração de moeda, quer seja d'especie metallica, quer d'outra qualquer especie representando aquella, ou introdução na circulação de moeda falsificada ou adulterada de qualquer d'aquellas especies.

"6. Fabrico intencional de instrumento, utensilio, ou apparatus appropriado ou destinado ao fabrico de moeda falsa.

"7. Falsificação, imitação fraudulenta ou viciação, e a passagem ou introdução na circulação do que se falsificou, imitou, ou viciou.

"8. Descaminho ou furto.

" 9. Malicious injury to property, if the offence be indictable

" 10. Obtaining money, goods, or valuable securities by false pretences.

" 11. Receiving money, valuable security, or other property, knowing the same to have been stolen, embezzled, or unlawfully obtained.

" 12. Crimes against bankruptcy law.

" 13. Fraud by a bailee, banker, agent, factor, trustee, or director or member, or public officer, of any Company, made criminal by any law for the time being in force.

" 14. Perjury, or subornation of perjury.

" 15. Rape.

" 16. Carnal knowledge, or any attempt to have carnal knowledge, of a girl under 16 years of age.

" 17. Indecent assault.

" 18. Administering drugs or using instruments with intent to procure the miscarriage of a woman.

" 19. Abduction.

" 20. Bigamy.

" 21. Child-stealing.

" 22. Abandoning children, exposing or unlawfully detaining them.

" 23. Kidnapping and false imprisonment.

" 24. Burglary or housebreaking.

" 25. Arson.

" 26. Robbery with violence.

" 27. Any malicious act done with intent to endanger the safety of any person in a railway train.

" 28. Threats by letter or otherwise, with intent to extort.

" 29. Piracy by law of nations.

" 30. Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

" 31. Assaults on board a ship on the high seas, with intent to destroy life or to do grievous bodily harm.

" 9. Damno voluntario causado em propriedade alheia, se constituir delicto ou crime.

" 10. Aquisição fraudulenta de dinheiro, fazenda, ou títulos de valor.

" 11. Recepção de dinheiro, título de valor, ou outra especie de propriedade havendo certeza de ter sido roubada, subtraída, ou illegitimamente adquirida.

" 12. Crimes contra a legislação relativa a fallencias.

" 13. Fraude commetida por depositario, banqueiro, agente, commissario, curador, ou director ou membro ou empregado de companhia que deva reputar-se criminosa em rasão de lei vigente.

" 14. Perjurio ou suborno para perjurar.

" 15. Violação.

" 16. Estupro, ou tentativa de estupro, em rapariga menor de 16 annos.

" 17. Ultrage ao pudôr.

" 18. Propinação de substancias ou emprego de instrumentos tendentes a produzir aborto.

" 19. Rapto.

" 20. Bigamia.

" 21. Substracção de menores.

" 22. Abandono de infantes, exposição, ou detenção illegal dos mesmos.

" 23. Rapto violento e carcere privado.

" 24. Roubo com arrombamento durante a noite ou arrombamento de domicilio para furtar.

" 25. Fogo posto.

" 26. Furto com violencia.

" 27. Acto voluntario que ponha em risco a segurança d'alguem em trem de via ferrea.

" 28. Ameaças por carta ou de outra forma, para realisar extorsão.

" 29. Pirateria segundo o direito das gentes.

" 30. Submersão ou destruição de navio no mar, tentativa ou conluio para esse fim.

" 31. Aggressão a bordo de navio no alto mar no intuito de destruir vidas ou causar grave lesão corporal.

"32. Revolt, or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.

"33. Dealing in slaves in such a manner as to constitute a criminal offence against the laws of both States.

"Extradition is also to be granted for participation in any of the aforesaid crimes, provided such participation be punishable by the laws of both the Contracting Parties.

"Extradition may also be granted, at the discretion of the State applied to, in respect of any other crime for which, according to the laws of both the Contracting Parties for the time being in force, the grant can be made.

"The Portuguese Government will not deliver up any person either guilty or accused of any crime punishable with death.

"ARTICLE III.

"The Portuguese Government will not grant the extradition of any Portuguese subject, and Her Britannic Majesty's Government will not grant the extradition of any British subject; but in the case of a naturalized subject, this Article shall only be applicable if the naturalization was obtained previous to the commission of the crime giving rise to the application for extradition.

"ARTICLE IV.

"The extradition shall not take place if the person claimed on the part of the British Government, or the person claimed on the part of the Portuguese Government, has already been tried and discharged or punished, or is still under trial, within the territories of the two High Contracting Parties respectively, for the crime for which his extradition is demanded.

"If the person claimed on the part of the British Government, or if the person claimed on the part of the Portuguese Government, should be under examination, or is undergoing sentence under a conviction for any other crime within

"32. Revolta ou conluio para revolta levada a effeito por duas ou mais pessoas a bordo de embarcação no mar alto contra a autoridade do capitão.

"33. Tráfico de escravos realçado por forma que constitua violação das leis d'ambos os Estados.

"Será também concedida a extradição pela cumplicidade em algum dos crimes acima citos, contanto que tal cumplicidade seja punível pelas leis de ambas as Partes Contractantes.

"Poderá também conceder-se extradição a arbitrio de Estado reclamado por qualquer outro crime que segundo as leis entao vigentes d'ambas as Partes Contractantes a ella poder dar lugar.

"O Governo Portuguez não concederá a extradição de nenhum individuo culpado ou accusado de crime a que seja applicavel pena de morte.

"ARTIGO III.

"O Governo Portuguez não concederá a extradição de qualquer subdito Portuguez, e o Governo de Sua Magestade Britannica não concederá a extradição de qualquer subdito Britannico; mas quando se tratar de um subdito naturalizado só serão applicadas as disposicoes d'este Artigo no caso de ter sido a naturalisação obtida antes da perpetração do crime que deu lugar ao pedido de extradição.

"ARTIGO IV.

"Não poderá effectuar-se a extradição se o individuo reclamado pelo Governo Britannico ou o individuo reclamado pelo Governo Portuguez já tiver sido julgado e condemnado ou absolvido, ou estiver sujeito ainda a julgamento, no territorio d'alguuma das Altas Partes Contractantes em razão do crime pelo qual tiver sido reclamada a sua extradição.

"Se o individuo reclamado pelo Governo Britannico, ou se o individuo reclamado pelo Governo Portuguez, se achar ainda sujeito a processo, ou estiver cumprindo sentença em virtude de condemnação por outro crime no territorio

the territories of the two High Contracting Parties respectively, his extradition shall be deferred until after he has been discharged, whether by acquittal, or on expiration of his sentence, or otherwise.

“ARTICLE V.

“The extradition shall not take place if, subsequently to the commission of the crime, or the institution of the penal prosecution, or the conviction thereon, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the State applied to.

“ARTICLE VI.

“A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character.

“ARTICLE VII.

“A person surrendered can in no case be kept in prison or be brought to trial in the State to which the surrender has been made, for any other crime, or on account of any other matters, than those for which the extradition shall have taken place, until he has been restored, or had an opportunity of returning, to the State by which he has been surrendered. This stipulation does not apply to crimes committed after the extradition.

“ARTICLE VIII.

“The requisition for extradition shall be made through the Diplomatic Agents of the High Contracting Parties respectively.

“The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition, and by such evidence as according to the laws of the place where the accused is found would justify his arrest if the crime had been committed there.

d'uma das Altas Partes Contractantes, demorar-se-ha a sua extradição até que ou em razão de absolvição proferida, ou por ter cumprido sentença, ou por outro motivo esteja livre.

“ARTIGO V.

“Não se realizará a extradição se subsequentemente á pratica do acto criminoso, ou á instauração do processo criminal, ou á condemnação do reu, resultar isenção de acção criminal ou de punição em razão do tempo decorrido, segundo as leis do país ao qual fôr feita a instancia de extradição.

“ARTIGO VI.

“Um criminoso refugiado não será entregue se o delicto que motivar o pedido de extradição fôr de caracter politico, ou se elle provar que esse pedido foi de facto apresentado no intuito de o processar ou punir por um delicto de caracter politico.

“ARTIGO VII.

“Um individuo entregue não pode em caso algum ser detido em prisão ou mettido em processo no Estado ao qual fôr concedida a extradição por crime ou em razão de factos diversos dos que determinaram a extradição, enquanto não tiver voltado ou tido occasião de voltar ao Estado pelo qual foi entregue.

“Não se applicará esta estipulação aos crimes commettidos depois da extradição.

“ARTIGO VIII.

“O pedido de extradição deverá ser apresentado pelos Agentes Diplomaticos das Altas Partes Contractantes.

“Deverão acompanhar o pedido de extradição d'um individuo accusado o mandado de captura expedido pela autoridade competente do Estado reclamante, e documentos que, em face das leis do logar onde estiver o accusado, bastem para justificar a prisão d'este se ali se tivesse perpetrado o crime.

" If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent Court of the State that makes the requisition for extradition.

" A sentence passed in *contumacia* is not to be deemed a conviction, but circumstances may cause a person so sentenced in *contumacia* to be dealt with as an accused person.

" ARTICLE IX.

" If the requisition for extradition be in accordance with the foregoing stipulations, the competent authorities of the State applied to shall proceed to the arrest of the fugitive.

" ARTICLE X.

" If the fugitive has been arrested in the British dominions, he shall forthwith be brought before a competent Magistrate, who is to examine him and to conduct the preliminary investigation of the case, just as if the apprehension had taken place for a crime committed in the British dominions.

" In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the British dominions shall admit as valid evidence the sworn depositions or the affirmations of witnesses taken in the dominions of Portugal, or copies thereof, and likewise the warrants and sentences issued therein, and certificates of, or judicial documents stating the fact of, a conviction, provided the same are authenticated as follows :—

" 1. A warrant must purport to be signed by a Portuguese Judge, Magistrate, or officer.

" 2. Depositions or affirmations, or the copies thereof, must purport to be certified under the hand of a Portuguese Judge, Magistrate, or officer to be the original depositions or affirmations, or to be the true copies thereof, as the case may require.

" 3. A certificate of a judicial document stating the fact of a conviction must purport to be certified

" Se o pedido se referir a individuo previamente condemnado terá de ser acompanhado da sentença condemnatoria proferida contra o criminoso pelo tribunal competente do Estado que requerer a extradição.

" Uma sentença de revelia não equivale a uma condenação ; mas dadas certas circunstancias poderá o individuo condemnado á revelia ser tratado como accusado.

" ARTIGO IX.

" Quando o pedido de extradição fór feito em harmonia com as precedentes estipulações, as autoridades competentes do Estado requerido procederão á captura do refugiado.

" ARTIGO X

" Se o refugiado fór preso nos dominios Britannicos terá de comparecer immediatamente perante o Magistrado competente, que deverá inquiril-o e proceder a investigações preliminares da causa, como se a prisão se houvesse effectuado em razão de crime commettido nos dominios Britannicos.

" Nas investigações a que tiverem de proceder em conformidade com as precedentes estipulações, as autoridades dos dominios Britannicos deverão admittir como testemunho valido os depoimentos ou asserções juradas de testemunhas tomadas nos dominios de Portugal, ou seus traslados, e pela mesma forma os mandados e sentenças proferidos, e attestados ou documentos officiaes affirmativos de condemnação proferida, contanto que esses documentos sejam legalizados pela forma seguinte :—

" 1. Um mandado terá de ser firmado pelo Juiz, Magistrado, ou funcionario Portuguez.

" 2. Os depoimentos e asserções e seus traslados devem vir acompanhados de declarações firmadas por Juiz, Magistrado, ou funcionario Portuguez de como são os depoimentos ou asserções originaes ou seus traslados authenticos, segundo cumprir.

" 3. Um attestado ou documento judicial affirmativo de condemnação proferida deverá ser certifi-

by a Portuguese Judge, Magistrate, or officer.

"4. In every case such warrant, deposition, affirmation, copy, certificate, or judicial document must be authenticated either by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Portuguese Minister; but any other mode of authentication for the time being permitted by the law in that part of the British dominions where the examination is taken may be substituted for the foregoing.

"ARTICLE XI.

"If the fugitive has been arrested in the dominions of Portugal, his surrender shall be granted if upon examination by a competent authority it appears that the documents furnished by the British Government contain sufficient *prima facie* evidence to justify the extradition.

"The Portuguese authorities shall admit as valid evidence records drawn up by the British authorities of the depositions of witnesses, or copies thereof, and records of conviction, or other judicial documents, or copies thereof: Provided that the said documents be signed or authenticated by an authority whose competence shall be certified by the seal of a Minister of State of Her Britannic Majesty.

"ARTICLE XII.

"The extradition shall not take place unless the evidence be found sufficient, according to the laws of the State applied to, either to justify the committal of the prisoner for trial, in case the crime had been committed in the territory of the said State, or to prove that the prisoner is the identical person convicted by the Courts of the State which makes the requisition, and that the crime of which he has been convicted is one in respect of which extradition could, at the time of such conviction, have been granted by the State applied to. In Her Britannic Majesty's dominions the fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison to await his surrender.

cado por Juiz, Magistrado, ou funcionario Portuguez.

"4. Em cada causa especial estes mandados, depoimentos, allegações, traslados, attestados, ou documentos officiaes, teem de ser authenticados ou por juramento de testemunhas, ou pela applicação do sello official do Ministro da Justica ou de outro Ministro de Portugal; poderá porem substituir a precedente outra forma de legalização reconhecida por lei vigente na parte dos dominios Britannicos onde se effectuar a diligencia.

"ARTIGO XI.

"Se o refugado fôr preso nos dominios de Portugal, deverá ser concedida a extradição se do exame a que proceder a autoridade competente resultar que os documentos apresentados pelo Governo Britannico contem elementos sufficientes *prima facie* para justificar a extradição.

"As autoridades Portuguezas considerarão elemento valido as certidões passadas pelas autoridades Britannicas dos depoimentos das testemunhas ou seus traslados, e certidões de sentença condemnatoria ou outros documentos judiciais ou traslados d'elles: Uma vez que os referidos documentos sejam assignados ou legalizados por uma autoridade cuja competencia seja authenticada com o sello d'um Ministro d'Estado de Sua Magestade Britannica.

"ARTIGO XII.

"Não se effectuará a extradição se os documentos apresentados não forem bastantes para, segundo as leis do Estado requerido, sujeitar o preso a julgamento se o crime tivesse sido perpetrado no territorio do referido Estado, ou para provar que o preso é o proprio individuo condemnado pelos Tribunaes do Estado requerente, e que o crime por que foi condemnado é d'aquelles pelos quaes ao tempo da condemnación podia o Estado requerido ter concedido a extradição. O criminoso refugiado nos dominios de Sua Magestade Britannica só poderá ser entregue findo o prazo de quinze dias contados da entrada na cadeia para aguardar n'ella a occasião da entrega.

"ARTICLE XIII.

"If the individual claimed by one of the two High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers, on account of other crimes or offences committed upon their respective territories, his extradition shall be granted to that State whose demand is earliest in date.

"ARTICLE XIV.

"If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, or within such further time as the State applied to, or the proper Tribunal thereof shall direct, the fugitive shall be set at liberty.

"ARTICLE XV.

"All articles seized which were in the possession of the person to be surrendered at the time of his apprehension shall, if the competent authority of the State applied to for the extradition has ordered the delivery thereof, be given up when the extradition takes place; and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof of the crime.

"ARTICLE XVI.

"All expenses connected with extradition shall be borne by the demanding State.

"ARTICLE XVII.

"The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of both of the High Contracting Parties, so far as the laws for the time being in force in such Colonies and foreign possessions respectively will allow.

"The requisition for the surrender of a fugitive criminal who has taken refuge in any of such Colonies or foreign possessions may be made to the Governor or chief authority of such Colony or possession by the chief Consular authority of the other State in such Colony or possession.

"ARTIGO XIII.

"Se o individuo reclamando por uma das Altas Partes Contractantes nos termos do presente Tratado fôr ao mesmo tempo reclamado por outra ou outras Potencias por outros crimes ou delictos commettidos em seus respectivos territorios, será concedida a extradição ao Estado cuja instancia preceder na da data as outras.

"ARTIGO XIV.

"Se os documentos apresentados dentro de dois mezes contados da data da captura do refugiado, ou no prazo de tempo que indicar o Estado requerido ou o Tribunal competente d'esse Estado, não forem sufficientes para se conceder a extradição, o preso será posto em liberdade.

"ARTIGO XV.

"Todos os objectos apprehendidos ao individuo sujeito a extradição e em seu poder ao tempo da captura serão entregues se a autoridade competente do Estado requerido assim o determinar quando se levar a effeito a extradição; e esta entrega abrangerá não só os objectos que houverem sido subtraídos mas tudo que servir para provar o crime.

"ARTIGO XVI.

"Todas as despesas relativas a extradição serão custeadas pelo Estado que a reclamar.

"ARTIGO XVII

"As estipulações d'este Tratado terão applicação ás Colonias e possessões ultramarinas de ambas as Altas Partes Contractantes até onde o permittirem as leis ao tempo em vigor em taes Colonias e possessões ultramarinas.

O pedido de extradição do criminoso que se houver refugiado em alguma d'essas Colonias ou possessões ultramarinas poderá ser apresentado ao Governador ou primeira autoridade da Colonia ou possessão de que se tratar pela principal autoridade Consular de outro Estado existente n'essa Colonia ou possessão.

"Such requisitions may be disposed of, subject always, as nearly as may be, and so far as the law of such Colony or foreign possession will allow, to the provisions of this Treaty, by the said Governor or chief authority, who, however, shall be at liberty either to grant the surrender, or to refer the matter to his Government.

"The High Contracting Parties shall, however, be at liberty to make special arrangements in their respective Colonies and foreign possessions for the surrender of criminals who may take refuge therein, on the basis, as nearly as may be, and so far as the law of such Colony or foreign possession will allow, of the provisions of the present Treaty.

"Requisitions for the surrender of a fugitive criminal emanating from any Colony or foreign possession of either of the High Contracting Parties shall be governed by the rules laid down in the preceding Articles of the present Treaty.

"ARTICLE XVIII.

"The present Treaty shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties at any time on giving to the other six months' notice of its intention to do so.

"The Treaty shall be ratified, and the ratifications shall be exchanged at Lisbon as soon as possible.

"In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

"Done in duplicate at Lisbon the seventeenth day of October, in the year of our Lord one thousand eight hundred and ninety-two.

(L.S.)
George G. Petre.

"Estes pedidos poderão ser resolvidos sujeitando-os tanto quanto ser possa, e até onde o permittir a lei da Colonia ou possessão ultramarina, ás disposições d'este Tratado, pelo referido Governador ou primeira autoridade a qual todavia terá a liberdade de deferir a extradição ou de referir o assumpto ao seu Governo.

"As Altas Partes Contractantes terão contudo a faculdade de estabelecer accordos especiaes nas suas respectivas Colonias e possessões ultramarinas para a extradição de criminosos que se houverem refugiado n'ellas, tomando por base, tanto quanto possível e até onde o permittir a legislação da Colonia ou possessão, as disposições d'este Tratado.

"Pedidos d'extradição d'um criminoso que emanarem de Colonia ou possessão ultramarina d'uma das Altas Partes Contractantes serão regulados pelas prescripções exaradas nos precedentes Artigos d'esta Tratado.

"ARTIGO XVIII.

"O presente Tratado entrará em vigor dez dias depois da sua publicação official segundo as formas prescriptas na legislação das Altas Partes Contractantes. Poderá em qualquer tempo dal-o por findo uma das Altas Partes Contractantes communicando á outra com a anticipação de seis mezes a intenção de assim fazer.

"O Tratado será ratificado, e trocadas as ratificações em Lisboa no mais curto prazo possível.

"Em testemunho do que os respectivos Plenipotenciarios o assignaram e lhe pozeram o sello das suas armas.

"Feito em duplicado em Lisboa aos dezasete dias do mez de Outubro, do anno de nosso Senhor Jesus Christo de mil oitocentos e noventa e dois.

(L.S.)
A. Ayres De Gouvea.

And whereas a Protocol relative to the said Treaty was signed at Lisbon on the 30th day of November 1892, which Protocol is in the terms following:—

“The stipulations of the present Treaty do not apply to extradition between British and Portuguese India, which is reserved for ulterior negotiation.

As estipulações da presente Convenção não são applicaveis á extradição de criminosos entre a India Britannica e a India Portuguesa, a qual fica reservada para ulterior negociação.

“Done in duplicate at Lisbon, the thirtieth day of November, in the year of our Lord one thousand eight hundred and ninety-two.

“Feito em duplicado em Lisboa, aos trinta dias do mez de Novembro, do anno do nascimento de nosso Senhor Jesus Christo de mil oita centos e noventa e dois.

“Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary,

“O Ministro e Secretario de Estado dos Negocios Extranjeros de Sua Magestade Fidelissima,

George G. Petre.

A. Ayres De Gouveia.

And whereas the ratifications of the said Treaty and Protocol were exchanged at Lisbon on the 13th day of November, 1893 :

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and in virtue of the authority committed to Her by the said recited Acts, doth order, and it is hereby ordered, that from and after the 19th day of March, 1894, the said Acts shall apply in the case of Portugal, and of the said Treaty and Protocol, with His Majesty the King of Portugal.

Provided always, and it is hereby further ordered, that the operation of the said Extradition Acts, 1870 * and 1873,† shall be suspended within the Dominion of Canada so far as relates to Portugal, and to the said Treaty and Protocol, and so long as the provisions of the Canadian Act aforesaid of 1886 ‡ continue in force, and no longer.

C. L. Peel.

* 33 & 34 Vict. c. 52.

† 36 & 37 Vict. c. 60.

‡ “The Extradition Act” (Revised Statutes of Canada, c. 142).

(u) Roumania.

1894. No. 119.

At the Court at Windsor, the 30th day of April, 1894.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.

Lord Steward.

Earl of Chesterfield.

Lord Chamberlain.

Sir Charles Russell.

Sir Frank Lascelles.

Whereas * * * [*Here follow the first three recitals to the Order relating to the Argentine Republic, printed at p. 1 above.*]

And whereas a treaty was concluded on the 21st day of March, 1893, between Her Majesty and His Majesty the King of Roumania, for the mutual extradition of fugitive criminals, which treaty is in the terms following :—

“ Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Majesty the King of Roumania, having judged it expedient, with a view to the better administration of justice and to the prevention of crime within their respective territories, that persons charged with or convicted of the crimes hereinafter enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up; the said High Contracting Parties have named as their Plenipotentiaries to conclude a treaty for this purpose, that is to say :

“ Her Majesty the Queen of the United Kingdom of Great Britain

“ *Maiestatea Sa Regina Regatului-Unit al Marii Britanii si Irlandei, Imperăteasă a Indiilor, si Maiestatea sa Regele Romaniei* găsind cu cale, în vederea unei mai bune administrații a justiției și pentru a preîntâmpina crimele comise pe teritoriile lor respective, ca indivizii, părți săi dovedite că au comis crimele mai la vale enumerate, și cari prin fugă s'ar fi sustras de la urmărirea justiției, să fie, în ôre-cari circumstanțe, extradați în mod reciproc; disese înalte Părți Contractante să numește ca Plenipotențieri ai Lor, în scopul de a încheia un Tractat, și anume :

“ *Maiestatea Sa Regina Regatului-Unit al Marii Britanii si Ir-*

and Ireland, Empress of India, the Honourable Charles Hardinge, Her Britannic Majesty's Chargé d'Affaires at Bucharest, &c., &c. ;

"And His Majesty the King of Roumania, M. Alexandre N. Lahovari, Grand Cross of His Order of the Crown of Roumania, &c., &c., His Minister-Secretary of State for Foreign Affairs ;

"Who, having communicated to each other their respective Full Powers, found in good and due form, have agreed upon and concluded the following Articles :—

"ARTICLE I.

"The High Contracting Parties engage to deliver up to each other those persons who, being accused or convicted of a crime or offence committed in the territory of the one Party, shall be found within the territory of the other Party, under the circumstances and conditions stated in the present Treaty.

"ARTICLE II.

"The crimes or offences for which the extradition is to be granted are the following :—

"1. Murder, or attempt, or conspiracy to murder.

"2. Manslaughter.

"3. Assault occasioning actual bodily harm. Maliciously wounding or inflicting grievous bodily harm.

"4. Counterfeiting or altering money, or uttering counterfeit or altered money.

"5. Knowingly making any instrument, tool, or engine adapted and intended for counterfeiting coin.

"6. Forgery, counterfeiting, or altering or uttering what is forged, or counterfeited, or altered.

"7. Embezzlement or larceny.

"8. Malicious injury to property, by explosives or otherwise, if the offence be indictable.

landei, Împărăteasa a Indiilor, pe Onorabilul Carol Hardinge, Însărcinat cu Afaceri al Majestăţii Sale Britanice la Bucuresci, &c., &c. ;

"Şi Majestatei Sa Regele Romaniei, pe Domnul Alexandru N. Lahovari, Mare-Cruce al Ordinului Său al Coronei României, &c., &c., Ministrul Său Secretar de Stat la Departamentul ul Afacerilor Străine ;

"Cări, Dupe ce s'au comunicat deplinele lor puteri, aflate în bună şi cuvenită formă, s'au învoit asupra Articolelor următoare :—

"ARTICOLUL I.

"Înaltele Părţi Contractante se obligă a'si preda reciproc indivizii cari, urmăriţi săi condamnaţi pentru o crimă săi un delict comis pe teritoriul uneia din Părţi, ar fi dovediţi pe teritoriul celei-alte în circumstanţele şi sub-condiţiile prevădute de Tractatul de faţă.

"ARTICOLUL II.

"Estradarea se va acorda pentru crimele săi delictelor următoare :—

"1. Omor săi tentativă de omor, săi complot având de scop această crimă.

"2. Omucidere fără premeditare săi pândire.

"3. Loviri şi răniri grave.

"4. Contrafacere săi alterare de monede ; punerea în circulaţie a monedelor false săi alterate.

"5. Fabricarea cu intenţie a unui instrument, ustensil, săi uneltă destinată la contrafacerea monedelor ţerei.

"6. Falsuri în scripte, titluri, efecte săi valori ; alterarea săi punerea în circulare a tot ce este ast-fel falsificat ori contrafăcut ori alterat.

"7. Sustragerea frauduloasă săi furtul.

"8. Distragerea ori degradarea ori-cărei proprietăţi prin explosive săi alt-fel, când faptul este încriminat şi pedepsit cu pedepse criminale săi corecţionale.

"9. Obtaining money, goods, or valuable securities by false pretences.

"10. Receiving money, valuable security, or other property knowing the same to have been stolen, embezzled, or unlawfully obtained.

"11. Crimes against bankruptoy law.

"12. Fraud by a bailee, banker, agent, factor, trustee, or director, or member or public officer of any Company, made criminal by any law for the time being in force.

"13. Perjury, or subornation of perjury.

"14. Rape.

"15. Carnal knowledge, or any attempt to have carnal knowledge, of a girl under 14 years of age.

"16. Indecent assault.

"17. Procuring miscarriage, administering drugs or using instruments with intent to procure the miscarriage of a woman.

"18. Abduction.

"19. Child stealing.

"20. Abandoning children, exposing or unlawfully detaining them.

"21. Kidnapping and false imprisonment."

"22. Burglary or housebreaking.

"23. Arson.

"24. Robbery with violence.

"25. Any malicious act done with intent to endanger the safety of any person in a railway train.

"26. Threats by letter or otherwise, with intent to extort.

"27. Piracy by law of nations.

"28. Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

"29. Assaults on board a ship on the high seas, with intent to destroy life, or do grievous bodily harm.

"30. Revolt, or conspiracy to revolt, by two or more persons on

"9. Escrocherie de bani, valori sau alte obiecte sub false pretexte.

"10. Tănuire frauduloasă de bani, valori sau alte obiecte, provenind din escrocherie, furt sau deturnare.

"11. Crime contra legilor asupra bancrutei.

"12. Frauda (abus de încredere) unui administrator bancher, agent, comisionar, curator sau director, ori membru ori funcționar al unei societăți ôrecare, dacă faptul este pedepsit de legile în vîgóre.

"13. Mărturia mincinoasă sau subornațiunea martorilor.

"14. Violul.

"15. Atentat la pudóre asupra persoanei unei fete mai mică de 14 ani, sau tentativa acestui fapt.

"16. Atentat la pudóre cu violență.

"17. Avort, administrare de substanțe sau întrebuințare de instrumente în intențiunea de a provoca avortul.

"18. Răpire de minori.

"19. Furt de copii.

"20. Abandonare, exposițiune sau sechestrare ilegală de copii.

"21. Sechestrare sau detențiune ilegală."

"22. Efracțiunea sau escalada unei locuințe si a dependințelor sale în scopul de a comite un delict.

"23. Incendiu.

"24. Furt cu violență.

"25. Ori-ce act comis cu intenție de a pune în pericol viața persoanelor aflate într'un tren de drum de fier.

"26. Amenințări, scrise sau altele, făcute în scop de extorsiune.

"27. Piraterie, considerată ca crimă dupe dreptul ginților.

"28. Inecarea, naufragierea sau distrugerea unui vas pe mare, sau tentativa sau complotul având acestui crimă de scop.

"29. Atacarea pe bordul unui vas în largul mării, în scop de omucidere sau pentru a faptui grave leziuni corporale.

"30. Revolta sau complotul de revoltă, a două sau mai multe

* See Protocol of March 13, 1894, printed at p. 199 below, explaining section 21.

board a ship on the high seas against the authority of the master.

" 31. Dealing in slaves.

" Extradition is also to be granted for participation in any of the aforesaid crimes, provided such participation be punishable by the laws of both the Contracting Parties.

" ARTICLE III.

" Neither Government may, in its absolute discretion, refuse to deliver up its own subjects to the other Government.

" ARTICLE IV.

" The extradition shall not take place if the person claimed has already been tried and discharged or punished, or is still under trial, within the territories of the two High Contracting Parties respectively, for the crime for which his extradition is demanded.

" If the person claimed should be under examination, or is undergoing sentence under a conviction, for any other crime within the territories of the two High Contracting Parties respectively, his extradition shall be deferred until after he has been discharged, whether by acquittal or on expiration of his sentence, or otherwise.

" ARTICLE V.

" The extradition shall not take place if, subsequently to the commission of the crime, or the institution of the penal prosecution, or the conviction thereon, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the State applied to.

" ARTICLE VI.

" A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character.

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persoane pe bordul unui vas în largul mării, contra autorității capitanului.

" 31. Negotul cu sclavi.

" Estradarea va avea de asemenea loc pentru complicitate la una din crimele mai sus pomenite, numai dacă complicitatea este pedepsită de legile celor două Părți Contractante.

" ARTICOLUL III.

" Fie-care din cele două Guverne va avea plină și înțregă voia să refuze celui-alt estradarea propriilor săi supuși.

" ARTICOLUL IV.

" Estradarea nu se va acorda dacă individul reclamat a fost deja judecat, achitat sau pedepsit, sau se găsește încă sub judecată într-unul din teritoriile celor două Înalte Părți Contractante, pentru chiar crima din cauza căreia se cere estradarea.

" Dacă persoana reclamată se află în prevenție, sau dacă, fiind condamnată, și suferă pedeapsa pe teritoriul uneia din cele două Părți Contractante pentru o altă crimă, estradarea se va amâna până la punerea acelei persoane în libertate, fie că va fi fost achitată, fie că și va fi terminat pedeapsa, fie pentru orî-ce alt cuvînt.

" ARTICOLUL V.

" Estradarea nu va avea loc dacă, dupe perpetrarea crimei, sau dupe urmărire, sau condamnare, prescripția urmăririlor sau a pedepsei este dobîndită dupe legile țerei căreia se adresează cererea.

" ARTICOLUL VI.

" Criminalul fugar nu va fi estradat dacă delictul pentru care estradarea se cere este considerat ca un delict politic, sau dacă individul dovedește că cererea de estradare a fost făcută, în realitate, în scopul de a-l urmări sau de a-l pedepsi pentru un delict cu caracter politic.

"ARTICLE VII.

"A person surrendered can in no case be kept in prison, or be brought to trial in the State to which the surrender has been made, for any other crime or on account of any other matters than those for which the extradition shall have taken place, until he has been restored or had an opportunity of returning to the State by which he has been surrendered.

"This stipulation does not apply to crimes committed after the extradition.

"ARTICLE VIII.

"The requisition for extradition shall be made through the Diplomatic Agents of the High Contracting Parties respectively.

"The requisition for the extradition of the accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition, and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there.

"If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent Court of the State that makes the requisition for extradition.

"A sentence passed *in contumacia* is not to be deemed a conviction, but a person so sentenced may be dealt with as an accused person.

"ARTICLE IX.

"If the requisition for extradition be in accordance with the foregoing stipulations, the competent authorities of the State applied to shall proceed to the arrest of the fugitive.

"ARTICLE X.

"If the fugitive has been arrested in the British dominions, he shall forthwith be brought before a competent Magistrate, who is to examine him and to conduct the preliminary investigation of the

"ARTICOLUL VII.

"Individul care va fi fost predat, nu va putea, în nici într'un caz, în țara căreia s'a acordat estradiția, să fie ținut în arest sau să fie urmărit pentru vre-o crimă sau fapte altele de cât acelea cari motivase estradarea, afară numai dacă a fost întors, sau dacă va fi avut ocasiunea de a se reintorŝe el însuși în Statul care l' estradase.

"Acastă stipulațiune nu este aplicabilă crimelor comise dupe estradare.

"ARTICOLUL VIII.

"Estradarea se va cere prin organul agenților diplomației respectivei al celor două Inalte Părți Contractante.

"Cererea de estradare a unui prevenit va trebui să fie însoțită de un mandat de arestare emis de autoritatea competentă a Statului care cere, și de dovezile cari, dupe legile locului unde prevenitul a fost dovedit, ar justifica arestarea lui, dacă actul pedepsit ar fi fost comis chiar acolo.

"Dacă cererea de estradare privește pe o persoană deja condamnată, ea trebuie să fie însoțită de sentința de condamnare care a fost dată contra culpabilului, de Tribunalul competent al Statului care cere.

"O sentință dată în lipsă nu va fi considerată ca o condamnare; dar o persoană ast-fel condamnată va putea fi tratată ca o persoană urmărită.

"ARTICOLUL IX.

"Dacă cererea de estradare este făcută în conformitate cu stipulațiunile precedente, autoritățile competente ale Statului de la care se cere vor proceda la arestarea fugarului.

"ARTICOLUL X.

"Dacă fugarul este arestat pe teritoriul Britanic, el va fi îndat dus înaintea unui Magistrat competent, care va trebui să l' asculte și să procedă la examinarea preliminară a afacerii în același chip,

case, just as if the apprehension had taken place for a crime committed in the British dominions.

“ In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the British dominions shall admit as valid evidence the sworn depositions or the affirmations of witnesses taken in Roumania, or copies thereof, and likewise the warrants and sentences issued therein, and certificates of, or judicial documents stating the fact of, a conviction, provided the same are authenticated as follows :—

“ 1. A warrant must purport to be signed by a Judge, Magistrate, or Judicial Officer of Police of Roumania.

“ 2. Depositions or affirmations, or the copies thereof, must purport to be certified under the hand of a Judge, Magistrate, or Judicial Officer of Police of Roumania, to be the original depositions or affirmations, or to be the true copies thereof, as the case may require.

“ 3. A certificate of or judicial document stating the fact of a conviction must purport to be certified by a Judge, Magistrate, or Judicial Officer of Police of Roumania.

“ 4. In every case such warrant, deposition, affirmation, copy, certificate, or judicial document must be authenticated either by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or of Foreign Affairs of Roumania; but any other mode of authentication for the time being permitted by the law in that part of the British dominions where the examination is taken, may be substituted for the foregoing.

“ ARTICLE XI.

“ On the part of the Roumanian Government, the extradition shall take place as follows in Roumania :

“ The Minister, or other diplomatic Agent of Her Britannic Majesty in Roumania, shall send to the Minister for Foreign Affairs, in support of each demand for extradition, an authentic and duly lega-

ca și când arestarea ar fi avut loc pentru o crimă comisă pe teritoriul Britanic.

“ Autoritățile Marelui Britanîi, când vor procede la examinarea hotărîtă prin stipulațiunile precedente, vor trebui să admită ca dovezi deplin valabile deposițiunile asermentate sau afirmările făcute în România, sau copiile acestor piese, precum și mandatele de arestare și sentințele date în această țară, precum și certificatele de condamnare sau piesele judiciare constatînd faptul unei condamnări, cu condițiune ca aceste documente să fi fost autentificate în modul următor :—

“ 1. Un mandat trebuie să fie semnat de un judecător, Magistrat sau ofițer al poliției judiciare din România.

“ 2. Deposițiunile sau afirmațiunile, sau copiile acestora, trebuie să fie semnate de un judecător, Magistrat sau ofițer al poliției judiciare din România, constatînd că aceste depuneri sau afirmări sunt în original sau în copie certificată, dupe casuri.

“ 3. Un certificat de condamnare sau un document judiciar constatînd faptul unei condamnări trebuie să fie certificate de un judecător, Magistrat sau ofițer al poliției judiciare din România.

“ 4. Aceste mandate, depuneri, afirmări, copii, certificate sau documente judiciare, trebuie să fie autentificate, în fie-care caz, sau prin jurămîntul unui martor, sau prin punerea sigilului oficial al Ministerului Justiției, sau al afacerilor străine al României; totuși, piesele mai sus pomenite vor putea fi autentificate și în ori-ce alt chip care ar fi recunoscut de legile locale în vîgore în acea parte a teritoriului Britanic, unde examinarea afacerii ar avea loc.

“ ARTICOLUL XI.

“ Din partea Guvernului Român estradarea va avea loc în România precum urmîză :

“ Ministrul, sau ori-ce alt Agent Diplomatic al Măiestăței Sale Britanice în România, va trimite Ministrului Afacerilor Străine, ca basă a fie, cărei cereri de estradare, expedițiunea autentică și în regulă

lised copy either of a certificate of condemnation, or of a warrant of arrest against an incriminated or accused person, showing clearly the nature of the crime or offence on account of which proceedings are being taken against the fugitive. The judicial document so produced shall be accompanied by a description and other particulars serving to establish the identity of the person whose extradition is claimed.

"In case the documents produced by the British Government to establish the identity, and the particulars gathered by the Roumanian police authorities for the same purpose, should be deemed to be insufficient, notice thereof shall forthwith be given to the Minister or other diplomatic agent of Her Britannic Majesty in Roumania, and the individual whose extradition is desired, if he has been arrested, shall remain in detention until the British Government has produced new elements of proof to establish his identity, or to clear up any other difficulties arising in the examination.

"ARTICLE XII.

"The extradition shall not take place unless the evidence be found sufficient, according to the laws of the State applied to, either to justify the committal of the prisoner for trial, in case the crime had been committed in the territory of the said State, or to prove that the prisoner is the identical person convicted by the Courts of the State which makes the requisition, and that the crime of which he has been convicted is one in respect of which extradition could, at the time of such conviction, have been granted by the State applied to. In Her Britannic Majesty's dominions the fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison to await his surrender.

"ARTICLE XIII.

"If the individual claimed by one of the two High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers, on account of other crimes or offences

legalisată, sau a unui certificat de condamnare sau a unui mandat de arestare, contra persoanei inculpată sau acuzate, arătând limpede natura crimei sau delictului din cauza căruia fugarul este urmărit. Documentul judiciar, ast-fel produs, va fi însoțit de semnalmente și de alte informațiuni putând se servi la constatarea identității individului reclamat.

"Dacă s'ar întâmpla ca documentele produse de Guvernul Britanic pentru a constata identitatea, și informațiunile culese de agenții poliției Române pentru același scop, să fie recunoscute neîdestulătoare, se va avertiza despre aceasta îndată Ministrul sau Agentul Diplomatic al Majestății Sale Britanice în România; iar individul urmărit, dacă a fost arestat, va continua să fie deținut până ce Guvernul Britanic va putea produce noi elemente de dovezi spre a constata identitatea sau a da lumină asupra altor greutăți de examinare.

"ARTICOLUL XII.

"Estradarea nu va avea loc de cât în cazul când dovezile produse vor fi fost găsite îndeșulătoare după legile Statului de la care se cere, fie pentru a îndreptăți darea în judecată a deținutului, în cazul când crima va fi fost comisă pe teritoriul țării Stat, fie pentru a constata identitatea deținutului cu individul condamnat de Tribunalele Statului care cere, și să dovedească că crima de care a fost recunoscut culpabil ar fi putut să dea loc la estradare din partea Statului de la care se cere, la epoca condamnării sale. Estradarea fugarului nu va avea loc în teritoriile Majestății Sale Britanice, de cât după trecerea unui timp de cinci-spre zece zile de la data întemnițării în scopul estradării.

"ARTICOLUL XIII.

"Dacă individul reclamat de una din cele două Înalte Părți Contractante, în executarea Tratatului de față, mai este reclamat de una sau mai multe alte Puteri, pe motivul unor alte crime sau delictelor comise

committed upon their respective territories, his extradition shall be granted to that State whose demand is earliest in date.

“ARTICLE XIV.

“If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, or within such further time as the State applied to, or the proper Tribunal thereof shall direct, the fugitive shall be set at liberty.

“ARTICLE XV.

“All articles seized which were in the possession of the person to be surrendered, at the time of his apprehension, shall, if the competent authority of the State applied to for the extradition has ordered the delivery thereof, be given up when the extradition takes place, and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof of the crime.

“ARTICLE XVI.

“All expenses connected with extradition shall be borne by the demanding State.

“ARTICLE XVII.

“The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of Her Britannic Majesty, so far as the laws for the time being in force in such Colonies and foreign possessions respectively will allow.

“The requisition for the surrender of a fugitive criminal who has taken refuge in any of such Colonies or foreign possessions may be made to the Governor or chief authority of such Colony or possession by any person authorized to act in such Colony or possession as a Consular officer of Roumania.

“Such requisitions may be disposed of, subject always, as nearly as may be, and so far as the law of such Colony or foreign possession will allow, to the provisions of this Treaty, by the said Governor or chief authority, who, however, shall

pe teritoriile lor respective, estradarea se va acorda Statului a cărui cerere poartă o dată mai veche.

“ARTICOLUL XIV.

“Fugarul va fi pus în libertate dacă nu se vor putea produce dovezi îndestulătoare pentru a motiva cererea de estradare în timp de două luni din ziua arestării sale până la ori-ce alt termen mai depărtat ce va fi fost arătat de Statul de la care se cere săi de Tribunalul competent al acestui Stat.

“ARTICOLUL XV.

“Obiectele găsite asupra individului reclamat în momentul arestării sale, dacă autoritatea competentă a Statului de la care se cere a ordonat remiterea lor vor fi predate atunci când estradarea va avea loc; această predare nu va cuprinde numai obiectele furate, dar și ori-ce alt ar putea servi ca piesă de convingere.

“ARTICOLUL XVI.

“Tote cheltuelile ocazionale de o cerere de estradare vor fi în sarcina Statului care cere.

“ARTICOLUL XVII.

“Stipulațiunile Tractatului de față vor fi aplicabile coloniilor și posesiunilor străine ale Majestății Sale Britanice pe cât se va putea dupe legile în vigoare în aceste colonii și posesiuni străine.

“Cererea de estradare a unui criminal care s'a refugiat în vreuna din aceste colonii sau posesiuni străine se va putea adresa Guvernatorului sau autorității superioare a acestei Colonii sau posesiune de către ori-ce persoană autorizată să funcționeze în această Colonie sau posesiune ca autoritate Consulară a României.

“Guvernatorul sau autoritatea superioară mai sus menționată va decide în privința unor asemenea cereri, conformându-se, pe cât se va putea, dupe legile acestor colonii sau posesiuni străine, cu stipula-

be at liberty either to grant the surrender or to refer the matter to his Government.

"Her Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of criminals from Roumania who may take refuge within such Colonies and foreign possessions, on the basis, as nearly as may be, and so far as the law of such Colony or foreign possession will allow, of the provisions of the present Treaty.

"Requisitions for the surrender of a fugitive criminal emanating from any Colony or foreign possession of Her Britannic Majesty shall be governed by the rules laid down in the preceding Articles of the present Treaty."

"ARTICLE XVIII.

"The present Treaty shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties at any time on giving to the other six months' notice of its intention to do so.

"The Treaty shall be ratified, and the ratifications shall be exchanged at Bucharest as soon as possible.

"In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

"Done in duplicate at Bucharest, the twenty-first (ninth) day of March, in the year of our Lord one thousand eight hundred and ninety-three.

"(L.S.) *Charles Hardinge.*"

tiunile Tractatului de față. Va avea totuși libertatea de a acorda estradarea sa de a supune cazul Guvernului său.

"Se rezervă totuși Majestății Sale Britanice, conformându-se, pe cât se va putea, după legile acestor Colonii sau posesiuni străine, cu stipulațiunile Tractatului de față, de a face aranjamente speciale în Coloniile sau posesiunile străine pentru estradarea criminalilor din România cari ar fi găsit refugiu în aceste Colonii sau posesiuni străine.

"Cererile privitoare la estradarea criminalilor fugiți dintr'una din aceste Colonii sau posesiuni străine ale Majestății Sale Britanice, vor fi tratate după dispozițiunile Articolelor precedente ale Tractatului de față."

"ARTICOLUL XVIII.

"Convenția de față va fi executorie după a decesei de la promulgarea sa, în formele prescise de legile celor două țări. Fiecare din Înaltele Părți Contractante va putea ori și când să pună capăt acestui tractat, avisând pe cea-alta despre intențiunea sa cu șase luni înainte.

"Convenția de față se va ratifica și ratificările se vor schimba la București cât se va putea mai curând.

"Drept care, Plenipotențiarul respectiv alui semnă această Convențiune și alui pus pe deasupra sigiliile armelor lor.

"Făcută în dublu original, la București, în a douăzeci și una (nouă) zi a lui Martie, anul Măntuirii una mișă opt-sute nouăzeci și trei.

"(L.S.) *Al. Lahovari.*"

And whereas a Protocol relative to the aforesaid Treaty was signed at Bucharest, on the 21st day of March 1893, which Protocol is in the terms following:—

"At the moment of proceeding to the signature of the Treaty of Extradition concluded this day, the undersigned Plenipotentiaries of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and of His Majesty the King of Roumania, have agreed upon the following declaration:—

"In momentul de a proceda la semnătura Convenției de estradiție încheiată astăzi, subsemnații, Plenipotențiarul Majestății Sale Reginei Regatului Unit al Marii-Britanii și Irlandei, Împărăteasă a Indiei, și al Majestății Sale Regelui României, au convenit asupra declarațiunei următoare:—

Extradition :—Roumania.

"The Roumanian Government may in its absolute discretion refuse to deliver up any person charged with a crime punishable with death.

"This Protocol shall have the same force and the same duration as the Treaty of Extradition signed to-day.

"In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

"Done in duplicate at Bucharest, the 21st (9th) March, 1893.

"(L.s.) *Charles Hardinge.*"

"Guvernul Român are în libertate d'a refuza estradarea cărei persoane acuzată de o pedeapsă cu moarte.

"Protocolul de față va avea aceeași forță și aceeași durată ca Convenția de estradare încheiată astăzi.

"Spre credința căroră Plenipotențiarilor respectivi l-au semnat l-au întărit cu sigilele lor.

"Făcut în dublu original la București, în 21 (9) Martie 1893.

"(L.s.) *Al Lahov*

And whereas a Protocol explanatory of section 21 of Art of the aforesaid Treaty was signed at Bucharest on the 13 of March, 1894, which Protocol is in the terms following :

"In order to avoid the possibility of any misunderstanding arising from the present text of § 21 of Article II of the Treaty of Extradition concluded between Great Britain and Roumania on the 21st (9th) of March, 1893, the undersigned Plenipotentiaries, duly authorized thereto by their respective Governments, have agreed as follows :—

"The fact of having kidnapped or falsely imprisoned one or more persons will not admit of a requisition for extradition being made unless the act shall have been committed by private individuals. No such requisition can be made as against public functionaries who may have been guilty of the act in question while in the performance of their duties.

"The present Protocol shall be considered as approved and sanctioned by the respective Governments without any special ratification, by the sole fact of the exchange of the ratifications of the Treaty to which it refers.

"Done in duplicate at Bucharest, the thirteenth (first) day of March, in the year of our Lord one thousand eight hundred and ninety-four.

"(L.s.) *John Walsham.*"

"Pentru a evita oricare legere ce ar putea rezulta din dactila actuală a § 21 de sub art. II al Convențiunii de Extraditație încheiată între Marea Britanie și România la 21 (9) Martie 1893, semnații Plenipotențiarilor au în regulă pentru acesta d'acord Guvernele lor respective au convenit asupra celor ce urmăresc :—

"Faptul de a fi sechestrat sau ținut în mod ilegal una sau multe persoane, nu va putea constitui cererea de extradare de către o Guvernare de către par. O asemenea cerere de extradare va putea fi făcută cu privire la funcționarii publici cari s'ar vinovați de faptul în oboseala exercițiul funcțiunilor lor.

"Protocolul de față se va considera ca aprobat și sancționat de către Guvernele respective fără încheierea specială a rapoartelor, fără vre o altă ratificare specială.

"Făcut în dublu exemplar la București, în trei-sprezeci (13) zi a lui Martie, anul Mille huit cent quatre-vingt quatre (1894).

"(L.s.) *Al Lahov*

And whereas the ratifications of the said Treaty and Protocol of the 21st day of March, 1893, were exchanged at Bucharest on the 13th day of March, 1894 :

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and in virtue of the authority committed to Her by the said recited Acts, doth order, and it is hereby ordered, that from and after the 21st day of May, 1894, the said Acts shall apply in the case of Roumania, and of the said Treaty and Protocol of the 21st of March, 1893, and of the Protocol of the 13th of March, 1894, with the King of Roumania.

Provided always, and it is hereby further ordered, that the operation of the said Extradition Acts, 1870 * and 1873,† shall be suspended within the Dominion of Canada so far as relates to Roumania, and to the said Treaty and Protocols, and so long as the provisions of the Canadian Act aforesaid of 1886 ‡ continue in force, and no longer.

C. L. Peel.

* 33 & 43 Vict. c. 52.

† 36 & 37 Vict. c. 60.

‡ "The Extradition Act" (Revised Statutes of Canada, c. 142).

(v) **Russia.**

At the Court at Windsor, the 7th day of March, 1887.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.
Lord Chamberlain.

Lord John Mannors.

Whereas * * * [*Here follows the first recital to the Order relating to the Argentine Republic and the second recital to the Order relating to Ecuador, printed at pp. 1, 76 respectively above.*]

And whereas a Treaty was concluded on the twenty-fourth day of November, one thousand eight hundred and eighty-six, between Her Majesty and His Majesty the Emperor of Russia, for the mutual extradition of fugitive criminals, which Treaty is in the terms following :—

" Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Majesty the Emperor of All the Russias, having judged it expedient, with a view to the better administration of justice and to the prevention of crime within the two countries and their jurisdictions, that persons charged with or convicted of the crimes hereinafter enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up; their said Majesties have named as their Plenipotentiaries to conclude a Treaty for this purpose, that is to say :

" Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, the Right Honourable Stafford Henry Earl of Iddesleigh, Viscount St. Cyres, a Peer of the United Kingdom, and a Baronet of Great Britain, Knight Grand Cross of the Most Honourable Order of the Bath, a Member of Her Majesty's Most Honourable Privy Council, Her Majesty's Principal Secretary of State for Foreign Affairs, &c., &c. ;

" And His Majesty the Emperor of All the Russias, M. Georges de Staal, Privy Councillor, Grand Cross of several Russian and foreign Orders, his Ambassador Extraordinary and Plenipotentiary to Her Majesty the Queen of the

" Sa Majesté la Reine du Royaume - Uni de la Grande-Bretagne et d'Irlande, Impératrice des Indes, et Sa Majesté l'Empereur de Toutes les Russies, ayant jugé convenable, en vue d'une meilleure administration de la justice, et pour prévenir les crimes dans les deux pays et leurs juridictions, que les individus accusés ou convaincus des crimes ci-après énumérés, et qui se seraient soustraits par la fuite aux poursuites de la justice fussent, dans certaines circonstances, réciproquement extradés; les dites Majestés ont nommés pour leurs Plénipotentiaires, à l'effet de conclure un Traité dans ce but, savoir :

" Sa Majesté la Reine du Royaume - Uni de la Grande-Bretagne et d'Irlande, Impératrice des Indes, le Très Honorable Stafford Henry Comte d'Iddesleigh, Vicomte St. Cyres, Pair du Royaume-Uni, Baronnet de la Grande-Bretagne, Chevalier Grand-Croix du Très Honorable Ordre du Bain, Membre du Très Honorable Conseil Privé de Sa Majesté, Principal Secrétaire d'Etat de Sa Majesté pour les Affaires Etrangères, &c., &c. ;

" Et Sa Majesté l'Empereur de Toutes les Russies, M. Georges de Staal, Conseiller Privé Actuel, Grand-Croix de plusieurs Ordres Russes et étrangers, son Ambassadeur Extraordinaire et Plénipotentiaire près la Cour de Sa

United Kingdom of Great Britain and Ireland, Empress of India, &c., &c. ;

"Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles :—

" Article I.

"The High Contracting Parties engage to deliver up to each other, those persons who, being accused or convicted of a crime or offence committed in the territory of the one Party, shall be found within the territory of the other Party, under the circumstances and conditions stated in the present Treaty.

" Article II.

"The crimes or offences for which the extradition is to be granted are the following :—

"1. Murder, or attempt, or conspiracy to murder.

"2. Manslaughter.

"3. Counterfeiting or altering money, or uttering counterfeit or altered money.

"4. Forgery, counterfeiting, or altering, or uttering what is forged, or counterfeited, or altered.

"5. Embezzlement or larceny.

"6. Malicious injury to property if the offence be indictable.

"7. Obtaining money or goods by false pretences.

"8. Crimes against bankruptcy law.

"9. Fraud by a bailee, banker, agent, factor, trustee, or director, or member or public officer of any Company, made criminal by any law for the time being in force.

"10. Perjury, or subornation of perjury.

"11. Rape.

"12. Carnal knowledge, or any attempt to have carnal knowledge, of a girl under 16 years of age.

"13. Indecent assault.

Majesté la Reine du Royaume-Uni de la Grande-Bretagne et d'Irlande, Impératrice des Indes. &c., &c. ;

"Lesquels, après, s'être communiqués leurs pleins pouvoirs respectifs, trouvés en bonne et due forme, ont arrêté et conclu les Articles suivants :—

" Article I.

"Les Hautes Parties Contractantes s'engagent à se livrer réciproquement les individus qui, poursuivis ou condamnés pour un crime ou un délit commis sur le territoire de l'une des Parties, seraient trouvés sur le territoire de l'autre, dans les circonstances et sous les conditions prévues par le présent Traité.

" Article II.

"Les crimes et délits pour lesquels l'extradition sera accordée sont les suivants :—

"1. Meurtre, ou tentative de meurtre, ou complot ayant ce crime pour but.

"2. Homicide sans préméditation ou guet-apens.

"3. Contrefaçon ou altération de monnaie, mise en circulation de monnaie contrefaite ou altérée.

"4. Faux, contrefaçon, ou altération, ou mise en circulation de ce qui est falsifié, ou contrefait, ou altéré.

"5. Détournement frauduleux, ou vol.

"6. Destruction ou dégradation de toute propriété, lorsque le fait incriminé est punissable de peines criminelles ou correctionnelles.

"7. Escroquerie d'argent, ou d'autres objets, sous de faux prétextes.

"8. Crimes contre les lois sur la banqueroute.

"9. Fraude (abus de confiance) par un administrateur, banquier, agent, commissionnaire, curateur, ou directeur, ou membre ou fonctionnaire d'une Société quelconque, pour autant que le fait est puni par les lois en vigueur.

"10. Faux serment ou subornation de témoins.

"11. Viol.

"12. Commerce charnel avec une jeune fille âgée de moins de 16 ans, ou tentative à ce fait.

"13. Attentat à la pudeur avec violence.

" 14. Administering drugs or using instruments with intent to procure the miscarriage of a woman.

" 15. Abduction.

" 16. Child stealing.

" 17. Kidnapping and false imprisonment.

" 18. Burglary or housebreaking.

" 19. Arson.

" 20. Robbery with violence.

" 21. Maliciously wounding, or inflicting grievous bodily harm.

" 22. Threats by letter, or otherwise, with intent to extort.

" 23. Piracy by law of nations.

" 24. Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

" 25. Assaults on board a ship on the high seas with intent to destroy life, or to do grievous bodily harm.

" 26. Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.

" 27. Dealing in slaves in such a manner as to constitute a criminal offence against the laws of both States.

" Extradition is also to be granted for participation in any of the aforesaid crimes, provided such participation be punishable by the laws of both the Contracting Parties.

" Extradition may also be granted, at the discretion of the State applied to, in respect of any other crime for which, according to the laws of both the Contracting Parties for the time being in force, the grant can be made.

" Article III.

" Either Government may, in its absolute discretion, refuse to deliver up its own subjects to the other Government.

" Article IV.

" The extradition shall not take place if the person claimed on the part of the British Government, or the person claimed on the part of the Russian Government, has already been tried and discharged or punished, or is still under trial,

" 14. Administration de substances ou emploi d'instruments dans l'intention de provoquer l'avortement.

" 15. Enlèvement.

" 16. Vol d'enfants.

" 17. Sequestration ou détention illégale.

" 18. Effraction ou escalade d'une habitation et de ses dépendances dans le but de commettre un crime.

" 19. Incendie volontaire.

" 20. Vol avec violence.

" 21. Blessures ou graves injures corporelles infligées avec mauvaise intention.

" 22. Menaces écrites ou autres faites en vue d'extorsion.

" 23. Piraterie considérée comme crime par le droit des gens.

" 24. Submersion, échouement ou destruction d'un navire en mer, ou tentative ou complot ayant ce crime pour but.

" 25. Attaque à bord d'un navire en haute mer dans le but d'homicide ou afin de porter de graves lésions corporelles.

" 26. Révolte ou complot de révolte par deux ou plusieurs personnes à bord d'un navire en haute mer, contre l'autorité du capitaine.

" 27. Traite des Esclaves telle qu'elle est punie par les lois des deux pays.

" L'extradition aura également lieu pour complicité à un des crimes ci-dessus mentionnés, pourvu que la complicité soit punissable par les lois des deux Parties Contractantes.

" Il dépendra de l'Etat requis d'accorder également l'extradition pour tout autre crime à raison duquel l'extradition peut avoir lieu d'après les lois en vigueur des deux Parties Contractantes.

" Article III.

" Chacun des deux Gouvernements aura liberté pleine et entière de refuser à l'autre l'extradition de ses propres sujets.

" Article IV.

" L'extradition ne sera pas accordée si l'individu réclamé par le Gouvernement du Royaume-Uni ou par celui de l'Empire de Russie, a déjà été jugé, acquitté ou puni, ou se trouve encore sous jugement, soit dans l'Empire de Russie, soit

within the Russian or British dominions respectively, for the crime for which his extradition is demanded.

" If the person claimed on the part of the British Government, or if the person claimed on the part of the Russian Government should be under examination, or is undergoing sentence under a conviction, for any other crime within the Russian or British dominions respectively, his extradition shall be deferred until after he has been discharged, whether by acquittal or on expiration of his sentence, or otherwise.

" Article V.

" The extradition shall not take place if, subsequently to the commission of the crime, or the institution of the penal prosecution, or the conviction thereon, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the State applied to.

" Article VI.

" A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character.

" Article VII.

" A person surrendered can in no case be kept in prison, or be brought to trial in the State to which the surrender has been made, for any other crime, or on account of any other matters than those for which the extradition shall have taken place, until he has been restored or had an opportunity of returning to the State by which he has been surrendered.

" This stipulation does not apply to crimes committed after the extradition.

" Article VIII.

" The requisition for extradition shall be made through the Diplomatic Agents of the High Contracting Parties respectively.

" The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradi-

tion dans le Royaume-Uni, pour le crime à raison duquel l'extradition est demandée.

" Si la personne réclamée par le Gouvernement du Royaume-Uni ou par celui de l'Empire de Russie est en état de prévention ou si ayant été condamnée elle subit la peine qui lui a été infligée dans l'Empire de Russie ou dans le Royaume-Uni, pour un autre crime, son extradition sera différée jusqu'à sa remise en liberté, soit qu'elle ait été acquittée, soit qu'elle ait purgé sa peine ou pour toute autre raison.

" Article V.

" L'extradition n'aura pas lieu si depuis la perpétration du crime les poursuites ou la condamnation, la prescription des poursuites ou de la peine est acquise d'après les lois du pays auquel la demande est adressée.

" Article VI.

" Le criminel fugitif ne sera pas extradé si le délit pour lequel l'extradition est demandée, est considéré comme un délit politique, ou si l'individu prouve que la demande d'extradition a été faite en réalité dans le but de le poursuivre ou de le punir pour un délit d'un caractère politique.

" Article VII.

" L'individu qui aura été livré ne pourra en aucun cas, dans le pays auquel l'extradition a été accordée, être maintenu en état d'arrestation ou poursuivi pour aucun crime ou faits autres que ceux qui avaient motivé l'extradition à moins qu'il n'ait été réintégré ou n'ait eu l'occasion de retourner de lui-même dans l'État qui l'avait extradé.

" Cette stipulation n'est pas applicable aux crimes commis après l'extradition.

" Article VIII.

" L'extradition sera demandée par l'organe des Agents Diplomatiques respectifs des deux Hautes Parties Contractantes.

" La demande d'extradition d'un prévenu devra être accompagnée d'un Mandat d'Arrêt décerné par l'autorité compétente de l'État requérant, et des preuves qui, d'après

tion, and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there.

" If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent Court of the State that makes the requisition for extradition.

" A sentence passed in *contumaciam* is not to be deemed a conviction, but a person so sentenced may be dealt with as an accused person.

" Article IX.

" If the requisition for extradition be in accordance with the foregoing stipulations, the competent authorities of the State applied to shall proceed to the arrest of the fugitive.

" Article X.

" If the fugitive has been arrested in the British dominions, he shall forthwith be brought before a competent Magistrate, who is to examine him, and to conduct the preliminary investigation of the case, just as if the apprehension had taken place for a crime committed in the British dominions.

" In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the British dominions shall admit as valid evidence the sworn depositions or the affirmations of witnesses taken in Russia, or copies thereof, and likewise the warrants and sentences issued therein, and certificates of, or judicial documents stating the fact of, a conviction, provided the same are authenticated as follows :—

" 1. A warrant must purport to be signed by a Judge, Magistrate, or officer of the Russian State.

" 2. Depositions or affirmations or the copies thereof must purport to be certified under the hand of a Judge, Magistrate, or officer of the Russian State, to be the original depositions or affirmations or to be true copies thereof, as the case may require.

les lois de l'endroit où le prévenu a été trouvé, justifieraient son arrestation, si l'acte punissable y avait été commis.

" Si la demande d'extradition concerne une personne déjà condamnée, elle doit être accompagnée de l'Arrêt de Condamnation qui a été rendu contre le coupable par le Tribunal compétent de l'Etat requérant.

" Un Arrêt rendu par contumace ne sera pas considéré comme une condamnation, mais une personne ainsi condamnée pourra être traitée comme une personne poursuivie.

" Article IX.

" Si la demande d'extradition s'accorde avec les stipulations précédentes, les autorités compétentes de l'Etat requis procéderont à l'arrestation du fugitif.

" Article X.

" Si le fugitif est arrêté sur territoire Britannique, il sera aussitôt amené devant un Magistrat compétent qui devra l'entendre et procéder à l'examen préliminaire de l'affaire de la même manière que si l'arrestation avait eu lieu pour un crime commis sur territoire Britannique.

" Les autorités de la Grande-Bretagne quand elles procéderont à l'examen établi par les stipulations précédentes devront admettre comme preuves entièrement valables les dépositions assermentées ou les affirmations faites en Russie, ou les copies de ces pièces, de même que les Mandats d'Arrêt et les sentences rendues dans ce pays, ainsi que les certificats de condamnation ou les pièces judiciaires constatant le fait d'une condamnation, pourvu que ces documents soient rendus authentiques de la manière suivante :—

" 1. Un mandat doit être signé par un Juge, Magistrat, ou officier de l'Empire Russe.

" 2. Les dépositions ou affirmations ou les copies de ces pièces doivent porter la signature d'un Juge, Magistrat, ou officier de l'Empire Russe, constatant que ces dépositions ou ces affirmations se trouvent être en expédition originale ou en copie vidimée selon le cas.

" 3. A certificate of or judicial document stating the fact of a conviction must purport to be certified by a Judge, Magistrate, or officer of the Russian State.

" 4. In every case such warrant, deposition, affirmation, copy, certificate, or judicial document must be authenticated either by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of the Russian State; but any other mode of authentication for the time being permitted by the law of the British dominion, where the examination is taken, may be substituted for the foregoing.

" Article XI.

" If the fugitive has been arrested in Russia his surrender shall be granted if upon examination by a competent authority it appears that the documents furnished by the British Government furnish sufficient *prima facie* evidence to justify the extradition.

" The Russian authorities shall admit as valid evidence records drawn up by the British authorities of the depositions of witnesses, or copies thereof, and records of conviction or other judicial documents or copies thereof: Provided that the said documents be signed or authenticated by an authority whose competence shall be certified by the seal of a Minister of State of Her Britannic Majesty.

" Article XII.

" The extradition shall not take place unless the evidence be found sufficient, according to the laws of the State applied to, either to justify the committal of the prisoner for trial, in case the crime had been committed in the territory of the said State, or to prove that the prisoner is the identical person convicted by the Courts of the State which makes the requisition, and that the crime of which he has been convicted is one in respect of which extradition could, at the time of such conviction, have been granted to the State applied to.

" 3. Un certificat de condamnation ou un document judiciaire constatant le fait d'une condamnation doit être certifié par un Juge, Magistrat, ou officier de l'Empire Russe.

" 4. Ces mandats, dépositions, affirmations, copies, certificats, ou documents judiciaires doivent être rendus authentiques dans chaque cas, soit par le serment d'un témoin, soit par l'apposition du sceau officiel du Ministre de la Justice, ou de tout autre Ministre de l'Empire Russe; cependant, les pièces sus-nommées pourront être rendues authentiques de toute autre manière qui serait reconnue par les lois locales en vigueur dans la partie du territoire Britannique, ou l'examen de l'affaire aura lieu.

" Article XI.

" L'extradition d'un fugitif arrêté en Russie sera accordée, s'il résulte de l'examen qui en sera fait par une autorité compétente que les documents fournis par le Gouvernement Britannique contiennent des preuves *prima facie* suffisantes pour justifier l'extradition.

" Les autorités Russes devront admettre comme preuves entièrement valables les procès-verbaux des dépositions de témoins dressés par les autorités Britanniques, ou les copies de ces procès-verbaux; ainsi que les procès-verbaux des condamnations ou autres documents judiciaires, ou les copies de ces actes; pourvu que ces documents soient signés ou rendus authentiques par une autorité dont la compétence sera certifiée par le sceau d'un Ministre d'État de Sa Majesté Britannique.

" Article XII.

" L'extradition n'aura lieu que dans le cas où les preuves fournies auront été trouvées suffisantes, d'après les lois de l'État requis, soit pour justifier la mise sous jugement du prisonnier dans le cas où le crime aurait été commis sur le territoire du dit État, soit pour constater l'identité du prisonnier avec l'individu condamné par les Tribunaux de l'État requérant et prouver que le crime dont il a été reconnu coupable aurait pu causer son extradition par l'État requis à l'époque de sa condamnation. L'extradition du fugitif n'aura lieu

Extradition :—Russia.

And the fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison to await his surrender.

" Article XIII.

" If the individual claimed by one of the two High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers, on account of other crimes or offences committed upon their respective territories, his extradition shall be granted to that State whose demand is earliest in date.

" Article XIV.

" If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, or within such further time as the State applied to, or the proper Tribunal thereof shall direct, the fugitive shall be set at liberty.

" Article XV.

" All articles seized which were in the possession of the person to be surrendered, at the time of his apprehension, shall, if the competent authority of the State applied to for the extradition has ordered the delivery thereof, be given up when the extradition takes place; and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof of the crime.

" Article XVI.

" All expenses connected with extradition shall be borne by the demanding State.

" Article XVII.

" When, for the purposes of a criminal matter, not being of a political character, pending in any of its Courts or Tribunals, either Government shall desire to obtain the evidence of witnesses residing in the other State, a 'Commission Rogatoire,' to that end shall be sent through the diplomatic channel, and which shall be executed in conformity with the law of the State where the evidence is to be taken.

qu'à l'expiration d'un tel quinze jours à dater de son sonnement en vue de l'extr

" Article XIII.

" Si l'individu réclamé p des Hautes Parties Contr en exécution du présent Tr aussi réclamé par une ou p autres Puissances, du chef crimes ou délits commis s territoires respectifs, son tion sera accordée à l'État demande est la plus ancie date.

" Article XIV.

" Le fugitif sera mis en l les preuves suffisantes à l'a la demande en extradition pas produites dans l'espace mois à partir du jour de l' tion ou de tel autre terr éloigné qui aura été indic l'État requis ou le Tribun pétent de cet État.

" Article XV.

" Les objets saisis en la po de l'individu réclamé au mo son arrestation seront, si l' compétente de l'État requ ordonné la remise, livrés l'extradition aura lieu; cette ne comprendra pas seulem objets volés, mais encore tou peut servir de pièce de convi

" Article XVI.

" Toutes les dépenses ou nées par une demande d' tion seront à la charge de requérant.

" Article XVII.

" Lorsque dans la poursui affaire pénale non politici des deux Gouvernements nécessaire l'audition de domiciliés dans l'autre Ét Commission Rogatoire sera à cet effet par la voie diplom et il y sera donné suite en ob les lois du pays où l'audit témoins devra avoir lieu

"The Government which sends the 'Commission Rogatoire' will, however, take all necessary steps and pay all expenses for finding and procuring the attendance before the Magistrate of the witnesses named for examination in such Commission.

"Article XVIII.

"The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of Her Britannic Majesty, so far as the laws for the time being in force in such Colonies and foreign possessions respectively will allow.

"The requisition for the surrender of a fugitive criminal who has taken refuge in any of such Colonies or foreign possessions may be made to the Governor or chief authority of such Colony or possession by the Chief Consular Officer of the Russian Empire in such Colony or possession.

"Such requisitions may be disposed of, subject always, as nearly as may be, and so far as the law of such Colony or foreign possession will allow, to the provisions of this Treaty, by the said Governor or chief authority, who, however, shall be at liberty either to grant the surrender, or to refer the matter to his Government.

"Her Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of Russian criminals who may take refuge within such Colonies and foreign possessions, on the basis, as nearly as may be, and so far as the law of such Colony or foreign possession will allow, of the provisions of the present Treaty.

"Requisitions for the surrender of a fugitive criminal emanating from any Colony or foreign possession of Her Britannic Majesty shall be governed by the rules laid down in the preceding Articles of the present Treaty.

"Article XIX.

"The present Treaty shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High

"L'Etat requérant s'engage à faire les démarches nécessaires et de pourvoir aux dépenses pour la recherche et la citation devant le Magistrat des témoins indiqués dans la Commission Rogatoire.

"Article XVIII.

"Les stipulations du présent Traité seront applicables aux Colonies et possessions étrangères de Sa Majesté Britannique pour autant que faire se pourra d'après les lois en vigueur dans ces Colonies et possessions étrangères respectivement.

"La demande d'extradition d'un criminel qui s'est réfugié dans une de ces Colonies ou possessions étrangères pourra être faite au Gouverneur ou à l'autorité supérieure de cette Colonie ou possession par l'autorité Consulaire principale de l'Empire de Russie dans cette Colonie ou possession.

"Le Gouverneur ou l'autorité supérieure mentionné ci-dessus, décidera à l'égard de telles demandes, en se conformant, autant que faire se pourra, d'après des lois de ces Colonies ou possessions étrangères, aux stipulations du présent Traité. Il sera toutefois libre d'accorder l'extradition ou de soumettre le cas à son Gouvernement.

"Il est réservé toutefois à Sa Majesté Britannique de faire, en se conformant autant que faire se pourra d'après les lois de ces Colonies ou possessions étrangères, aux stipulations du présent Traité, des arrangements spéciaux dans les Colonies ou possessions étrangères pour l'extradition de criminels Russes qui auraient trouvé un refuge dans ces Colonies ou possessions étrangères.

"Les demandes concernant l'extradition de criminels qui se sont échappés d'une des Colonies ou possessions étrangères de Sa Majesté Britannique seront traités suivant les dispositions des Articles précédents du présent Traité.

"Article XIX.

"La présente Convention sera exécutoire à dater du dixième jour après sa promulgation, dans les formes prescrites par les lois des deux pays. Chacune des Hautes Parties Contractantes pourra en

Contracting Parties at any time on giving to the other six months' notice of its intention to do so.

"The Treaty shall be ratified, and the ratifications shall be exchanged at London as soon as possible.

"In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

"Done at London, the twenty-fourth day of November, 1886.

tout temps mettre fin au Traité en donnant à l'autre six mois à l'avance avis de son intention.

"Elle sera ratifiée, et les ratifications en seront échangées à Londres aussitôt que faire se pourra.

"En foi de quoi, les Plénipotentiaires respectifs ont signé la présente Convention, et y ont apposé le cachet de leurs armes.

"Fait à Londres, le vingt-quatre Novembre, 1886.

"(L.S.) *Iddesleigh.*
"(L.S.) *Staal.*"

And whereas the ratifications of the said Treaty were exchanged at London on the Second day of February, One thousand eight hundred and eighty-seven;

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and in virtue of the authority committed to her by the said recited Acts, doth order, and it is hereby ordered, that from and after the 21st day of March, One thousand. eight hundred and eighty-seven, the said Acts shall apply in the case of Russia, and of the said Treaty with His Majesty The Emperor of Russia;

Provided always, and it is hereby further ordered that the operation of the said Acts shall be suspended within the Dominion of Canada so far as relates to the Russian Empire and to the said Treaty and so long as the provisions of the Canadian Acts* aforesaid continue in force, and no longer.

C. L. Peel.

(w) Salvador.

At the Court at Windsor, the 16th day of December, 1882.

PRESENT:

The Queen's Most Excellent Majesty.

His Royal Highness the Duke of Connaught and Strathearne.

Marquess of Hartington.
Earl of Derby.
Earl of Kimberley.

Mr. Gladstone.
Mr. Childers.

Whereas * * * [*Here follows the first recital to the Order relating to Luxemburg, printed at p. 141 above.*]

And whereas a Treaty was concluded on the twenty-third day of June, one thousand eight hundred and eighty-one, between

* 40 Vict. c. 25; 45 Vict. c. 20; now repealed and consolidated as "The Extradition Act" (Revised Statutes of Canada, c. 142).

Her Majesty and the President of the Republic of Salvador for the Mutual Extradition of Fugitive Criminals, which Treaty is in the terms following :—

"Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and his Excellency the President of the Republic of Salvador, having judged it expedient, with a view to the better administration of justice and to the prevention of crime within the two countries and their jurisdictions, that persons charged with or convicted of the crimes or offences hereinafter enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up, have named as their Plenipotentiaries to conclude a Treaty (that is to say) :

"Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honourable Richard Bickerton Pemell, Lord Lyons, a Peer of the United Kingdom of Great Britain and Ireland, Knight Grand Cross of the Most Honourable Order of the Bath, Knight Grand Cross of the Most Distinguished Order of St. Michael and St. George, one of Her Britannic Majesty's Most Honourable Privy Council, and Her Majesty's Ambassador Extraordinary and Plenipotentiary to the French Republic;

"And his Excellency the President of the Republic of Salvador, Señor Don José María Torres-Calcado, Minister Plenipotentiary of the Republic of Salvador to Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Grand Officer of the Legion of Honour;

"Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles :—

" Article I.

"The High Contracting Parties engage to deliver up to each other, under the circumstances and conditions stated in the present Treaty, those persons who, being accused or convicted of any of the crimes or offences enumerated in Article II., committed in the territory of the one Party, shall be found within the

"Su Majestad la Reina del Reino Unido de Gran Bretaña é Irlanda, y Su Excelencia el Presidente de la República de Salvador, habiendo juzgado conveniente, con la mira de mejorar la administración de justicia y prevenir los crímenes en ambos países y sus jurisdicciones, que las personas acusadas ó convictas de los delitos ó crímenes que en seguida se enumerarán, huyendo la justicia, sean, bajo ciertas circunstancias, recíprocamente entregadas, han nombrado por sus Plenipotenciarios para concluir un Tratado, á saber :—

"Su Majestad la Reina del Reino Unido de Gran Bretaña é Irlanda, al Muy Honorable Richard Bickerton Pemell, Lord Lyons, Par del Reino Unido de Gran Bretaña é Irlanda, Gran Cruz de la Muy Honorable Orden del Baño, Gran Cruz de la Muy Distinguida Orden de San Miguel y San Jorge, uno de los Más Honorables Consejeros de Su Majestad Británica, Embajador Extraordinario y Plenipotenciario de Su Majestad Británica ante la República Francesa;

"Y Su Excelencia el Señor Presidente de la República del Salvador, al Señor Don José María Torres-Calcado, Ministro Plenipotenciario de la República del Salvador, acreditado ante el Gobierno de Su Majestad la Reina de la Gran Bretaña é Irlanda, Gran Oficial de la Legión de Honor;

"Quienes, después de haberse comunicado mutuamente sus respectivos plenos poderes, y encontrándolos en buena y debida forma, han aceptado y admitido los Artículos siguientes :—

" Artículo I.

"Las Altas Partes Contratantes se comprometen á entregarse recíprocamente en las condiciones y circunstancias expresadas en el presente Tratado, las personas que siendo acusadas ó convictas de los delitos ó crímenes enumerados en el Artículo II., cometidos en el territorio de una de las Partes, se

territory of the other Party.

encuentren dentro del territorio de la otra Parte.

" Article II.

" The extradition shall be reciprocally granted for the following crimes or offences :—

" 1. Murder (including assassination, parricide, infanticide, poisoning), or attempt to murder.

" 2. Manslaughter.

" 3. Administering drugs or using instruments with intent to procure the miscarriage of women.

" 4. Rape.

" 5. Aggravated or indecent assault; carnal knowledge of a girl under the age of 10 years; carnal knowledge of a girl above the age of 10 years and under the age of 12 years; indecent assault upon any female, or any attempt to have carnal knowledge of a girl under 12 years of age.

" 6. Kidnapping and false imprisonment, child-stealing, abandoning, exposing, or unlawfully detaining children.

" 7. Abduction of minors.

" 8. Bigamy.

" 9. Wounding, or inflicting grievous bodily harm.

" 10. Assaulting a magistrate, or peace or public officer.

" 11. Threats, by letter or otherwise, with intent to extort money or other things of value.

" 12. Perjury or subornation of perjury.

" 13. Arson.

" 14. Burglary or housebreaking, robbery with violence, larceny, or embezzlement.

" 15. Fraud by a bailee, banker, agent, factor, trustee, director, member, or public officer of any Company, made criminal by any law for the time being in force.

" 16. Obtaining money, valuable security, or goods by false pretences; receiving any money, valuable security, or other property, knowing the same to have been stolen or unlawfully obtained.

" Artículo II.

" La extradición será recíprocamente acordada por los siguientes crímenes ó delitos :—

" 1. Homicidio premeditado (incluyendo el asesinato, el parricidio, el infanticidio, el envenenamiento), ó tentativa de homicidio premeditado.

" 2. Homicidio.

" 3. Administración de drogas ó el uso de instrumentos á fin de ocasionar el aborto en las mujeres.

" 4. Estupro.

" 5. Atentado al pudor con violencia; relaciones sensuales con una muchacha menor de diez años; relaciones sensuales con una muchacha mayor de diez años y menor de doce años; atentado al pudor con cualquiera mujer, ó tentativa alguna para tener relaciones sensuales con una muchacha menor de doce años.

" 6. Hurto de niños ó adultos para transportarlos á otro país ó conservarlos en el mismo (plagio), indebida encarceración, abandono, exposición, y encierro ilegal de niños ó adultos.

" 7. Rapto de menores.

" 8. Bigamia.

" 9. Heridas ó golpes graves en el cuerpo.

" 10. Violencias contra algun magistrado, oficial de paz ó público.

" 11. Amenazas por medio de cartas ó de otra manera, con ánimo de obtener indebidamente dinero ú otras cosas de valor.

" 12. Perjurio, soborno para perjurio.

" 13. Incendio voluntario.

" 14. Robo con efracción, robo con violencia, ratería, y hurto.

" 15. Fraude cometido por un depositario de bienes, banquero, mandatario, comisionista, administrador de bienes ajenos, tutor, curador, liquidador, síndico, oficial ministerial, director, miembro ú oficial público de alguna compañía, considerado el fraude como criminal por alguna ley vigente.

" 16. Estafa ó todo lo que sea obtener dinero, fianza ó mercaderías por medio de falsos datos; recibir dinero, fianza ó cualesquiera otros valores, sabiendo que han sido robados ó adquiridos en oposición á las leyes.

"17. (a.) Counterfeiting or altering money, or bringing into circulation counterfeited or altered money.

"(b.) Forgery, or counterfeiting or altering, or uttering what is forged, counterfeited, or altered.

"(c.) Knowingly making, without lawful authority, any instrument, tool, or engine adapted and intended for the counterfeiting of coin of the realm.

"18. Crimes against Bankruptcy Law.

"19. Any malicious act done with intent to endanger persons in a railway train.

"20. Malicious injury to property, if such offence be indictable.

"21. Crimes committed at sea :—

"(a.) Piracy by the law of nations.

"(b.) Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

"(c.) Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.

"(d.) Assault on board a ship on the high seas with intent to destroy life, or to grievous bodily harm.

"22. Dealing in slaves in such manner as to constitute an offence against the laws of both countries.

"The extradition is also to take place for participation in any of the aforesaid crimes as an accessory before or after the fact, provided such participation be punishable by the laws of both Contracting Parties.

" Article III.

"No Salvadorian shall be delivered up by the Government of Salvador to the Government of the United Kingdom, and no subject of the United Kingdom shall be delivered up by the Government thereof to the Government of Salvador.

" Article IV.

"The extradition shall not take place if the person claimed on the part of the Government of the

"17. (a.) Falsificar ó alterar moneda, ó poner en circulacion moneda falsa ó alterada.

"(b.) Contrahacer, falsificar ó alterar, ó poner en circulacion lo que está falsificado, contrahecho ó alterado.

"(c.) Hacer premeditadamente, sin permiso de la autoridad constituida, algun instrumento, herramienta ó máquina con la intencion de falsificar ó contrahacer la moneda nacional.

"18. Crímenes cometidos contra la ley de quiebras.

"19. Cualquier acto doloso ejecutado con la mira de poner en peligro las personas que viajen en trenes de ferro carriles.

"20. Perjuicio malicioso causado á la propiedad, si el delito es justiciable.

"21. Delitos cometidos en el mar :—

"(a.) Pirateria, segun la ley de las naciones.

"(b.) Echar á pique ó destruir un buque en el mar, ó esforzarse ó conspirar para hacerlo.

"(c.) Sublevacion ó conspiracion para rebelarse, de dos ó más personas á bordo de un buque, en alta mar, contra la autoridad de capitan.

"(d.) Ataques á bordo de un buque en alta mar, con intencion de quitar la vida ó de hacer otro dafio grave corporal.

"22. Darse al Tráfico de Esclavos, si fuese con violacion de las leyes de ámbos países.

"La extradicion tambien se puede pedir por la participacion en cualquiera de los crímenes mencionados más arriba, como un accesorio ántes ó despues del hecho, con tal que dicha participacion sea castigado por las leyes de las dos Partes Contratantes.

" Artículo III.

"Ningun Salvadoreño será entregado por el Gobierno del Salvador al Gobierno del Reino Unido, y ningun súbdito del Reino Unido será entregado por su Gobierno al Gobierno del Salvador.

" Artículo IV.

"La extradicion no se efectuará si la persona reclamada por parte del Gobierno del Reino Unido, ó la

United Kingdom, or the person claimed on the part of the Government of Salvador, has already been tried and discharged or punished, or is still under trial in the territory of Salvador or in the United Kingdom respectively for the crime for which his extradition is demanded.

"If the person claimed on the part of the Government of the United Kingdom, or on the part of the Government of Salvador, should be under examination for any other crime in the territory of Salvador or in the United Kingdom respectively, his extradition shall be deferred until the conclusion of the trial and the full execution of any punishment awarded to him.

"Article V.

"The extradition shall not take place if, subsequently to the commission of the crime, or the institution of the penal prosecution or the conviction thereon, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the State applied to.

"Article VI.

"A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove that the requisition for his surrender has, in fact, been made with a view to try or punish him for an offence of a political character.

"Article VII.

"A person surrendered can in no case be kept in prison or be brought to trial in the State to which the surrender has been made, for any other crime, or on account of any other matters, than those for which the extradition shall have taken place. This stipulation does not apply to crimes committed after the extradition.

"Article VIII.

"The requisition for extradition shall be made through the Diplomatic Agents of the High Contracting Parties respectively.

"The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent authority

persona reclamada por parte del Gobierno del Salvador, ha sido ya juzgada, absuelta ó castigada, ó está aún procesándose en el territorio del Salvador ó del Reino Unido respectivamente, por el delito por el cual se pide la extradición.

"Si la persona reclamada por parte del Gobierno del Reino Unido, ó por parte del Gobierno del Salvador, estuviese sometida a juicio por algun otro delito en el territorio del Salvador ó del Reino Unido respectivamente, se deferirá su extradición hasta el fin del juicio y la plena ejecución de cualquiera castigo á que fuese condenada.

"Artículo V.

"La extradición no se efectuará si, subsecuentemente á la ejecución del crimen ó al empezar el proceso, ó á la convicción del reo, se puede oponer la prescripción para que sea exento de proceso ó del castigo, segun las leyes del Estado al cual se reclama.

"Artículo VI.

"El reo fugitivo no será entregado si el delito por el cual se pide la extradición es de un carácter político, ó si se prueba que la petición para entregarlo se ha hecho en efecto con la mira de juzgarlo ó castigarlo por un delito de carácter político.

"Artículo VII.

"Una persona entregada no podrá, en ningún caso, ser mantenida en prision ó procesada en el Estado al que se ha hecho la entrega, por ningún otro crimen ó delito, ó por ninguna otra causa que aquella por la cual se ha efectuado la extradición. Esta estipulación no se aplica á crímenes cometidos despues de la extradición.

"Artículo VIII.

"La petición de extradición se hará respectivamente por medio de los Agentes Diplomáticos de las Altas Partes Contratantes.

"La demanda de extradición de una persona acusada debe ir acompañada de una orden de prision, dictada por la autoridad competente

of the State requiring the extradition, and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there.

"If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent Court of the State that makes the requisition for extradition.

"A requisition for extradition cannot be founded solely on sentences passed in *contumaciam*, but persons convicted for contumacy shall be deemed to be accused persons.

"Article IX.

"If the requisition for extradition be in accordance with the foregoing stipulations, the competent authorities of the State applied to shall proceed to the arrest of the fugitive.

"The prisoner is then to be brought before a competent Magistrate, who is to examine him, and to conduct the preliminary investigation of the case, just as if the apprehension had taken place for a crime committed in the same country.

"Article X.

"A fugitive criminal may be apprehended under a warrant issued by any Police Magistrate, Justice of the Peace, or other competent authority in either country, on such information or complaint, and such evidence, or after such proceedings as would, in the opinion of the authority issuing the warrant, justify the issue of a warrant if the crime had been committed or the person convicted in that part of the dominions of the two Contracting Parties in which the Magistrate, Justice of the Peace, or other competent authority exercises jurisdiction: provided, however, that in the United Kingdom the accused shall, in such case, be sent as speedily as possible before a Police Magistrate in London. He shall, in accordance with this Article, be discharged, as well in Salvador as in the United Kingdom, if within the term of thirty days a requisition for extradition shall not have been made by the Diplomatic Agent of

del Estado que pide la extradicion, y fundada en testimonios tales que segun las leyes del lugar donde se encuentre el acusado, justifiquen su prision como si el delito hubiese sido cometido allí.

"Si la demanda se refiere á una persona ya convicta, debe ir acompañada de la sentencia de condenacion pronunciada contra la persona convicta por el Tribunal competente del Estado que hace la demanda de extradicion.

"Una demanda de extradicion no puede fundarse solamente en sentencias dictadas por contumacia; pero las personas convictas de contumacia deben ser consideradas como acusadas.

"Artículo IX.

"Si la demanda de extradicion está de acuerdo con las precedentes estipulaciones, las autoridades competentes del Estado al que se dirige la peticion procederán á la prision del fugitivo.

"El prisionero será conducido entonces ante el Magistrado competente, quien debe examinarlo y hacer la investigacion preliminar del caso, como si la aprehension se hubiese efectuado por un delito cometido en el mismo pais.

"Artículo X.

"Un delincuente fugitivo puede ser aprehendido en virtud de una orden de prision dictada por cualquier Magistrado de Policia, Juez de Paz ú otra autoridad competente en ámbos paises, teniendo á la vista tales informes ó quejas, y tales pruebas, ó habiéndose procedido á tales diligencias que, en la opinion de la autoridad que dicta la orden de prision, justificaria dicha orden si el crimen hubiese sido cometido ó si la persona hubiese sido convencida en la parte del territorio de las dos Partes Contractantes en la cual el Magistrado, Juez de Paz, ú otra autoridad competente ejerce jurisdiccion; con tal, sin embargo, de que en el Reino Unido el acusado sea en tal caso conducido tan pronto como se pueda ante un Magistrado de Policia en Londres. El criminal fugitivo será, segun este Artículo, puesto en libertad, sea en el Salvador ó en el Reino Unido, si en el término de treinta dias no se hubiese hecho la demanda de extradicion

his country in accordance with the stipulations of this Treaty.

"The same rule shall apply to the cases of persons accused or convicted of any of the crimes or offences specified in this Treaty, and committed on the high seas on board any vessel of either country which may come into a port of the other.

" Article XI.

"The extradition shall take place only if the evidence be found sufficient, according to the laws of the State applied to, either to justify the committal of the prisoner for trial, in case the crime had been committed in the territory of the same State, or to prove that the prisoner is the identical person convicted by the Courts of the State which makes the requisition, and no criminal shall be surrendered until after the expiration of fifteen days from the date of his committal to prison to await the warrant for his surrender.

" Article XII.

"In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the State applied to shall admit as entirely valid evidence the sworn depositions or statements of witnesses taken in the other State, or copies thereof, and likewise the warrants and sentences issued therein, provided such documents purport to be signed or certified by a Judge, Magistrate, or Officer of such State, and are authenticated by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of State.

" Article XIII.

"If the individual claimed by one of the two High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers, on account of other crimes or offences committed upon their respective territories, his extradition shall be granted to that State whose demand is earliest in date; unless any other arrangement should have been made between the different Govern-

por medio del Ajente Diplomático de su país, conforme á las estipulaciones de este Tratado.

"La misma regla será applicada al caso de las personas acusadas ó convictas de alguno de los delitos ó crímenes especificados en este Tratado, y cometidos en alta mar á bordo de cualquier buque de uno ú otro país que entre en un puerto del otro.

" Artículo XI.

"La extradición se efectuará solamente si los testimonios se encuentran suficientes segun las leyes del Estado á que se hace la demanda, ya sea para justificar el sometimiento á juicio del preso, en caso en que el crimen hubiese sido cometido en territorio de dicho Estado, ó para probar la identidad del preso convencido por los Tribunales del Estado que hace la demanda, y ningun delincuente ó criminal puede ser entregado ántes de pasados quince dias desde la fecha de su sometimiento á juicio, en tanto que se dicte la órden de entrega.

" Artículo XII.

"En el exámen que se haga de conformidad con las precedentes estipulaciones, las autoridades del Estado á que se ha recurrido reconocerán como plena prueba las deposiciones juradas y las relaciones de los testigos hechas en el otro Estado ó las copias de aquellas, y asimismo las órdenes y sentencias pronunciadas, con tal que esos documentos estén firmados ó certificados por un Juez, Magistrado, ú Oficial de dicho Estado, y sean autenticados por el juramento de algun testigo, ó que sean sellados con el sello oficial del Ministro de Justicia ó de algun otro Ministro de Estado.

" Artículo XIII.

"Si el individuo reclamado por una de las Altas Partes Contratantes, conforme al presente Tratado, fuese reclamado simultáneamente por uno ó varios otros Estados, por otros delitos ó crímenes cometidos en sus respectivos territorios, su extradición será otorgada al Estado que ha presentado primero la demanda de extradición; á ménos que algun otro arreglo no haya sido estipulado entre los

means to determine the preference, either on account of the gravity of the crime or offence, or for any other reason.

"Article XIV.

"If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, he shall be set at liberty.

"Article XV.

"All articles seized which were in the possession of the person to be surrendered at the time of his apprehension shall, if the competent authority of the State applied to for the extradition has ordered the delivery of such articles, be given up when the extradition takes place; and the said delivery shall extend, not merely to the stolen articles, but to everything that may serve as a proof of the crime.

"Article XVI.

"The High Contracting Parties renounce any claim for the reimbursement of the expenses incurred by them in the arrest and maintenance of the person to be surrendered and his conveyance till placed on board ship; they reciprocally agree to bear such expenses themselves.

"Article XVII.

"The stipulations of the present Treaty shall be applicable to the Colonies and foreign Possessions of Her Britannic Majesty.

"The requisition for the surrender of a fugitive criminal who has taken refuge in any of such Colonies or foreign Possessions shall be made to the Governor or chief authority of such Colony or Possession by the Chief Consular Officer of the Republic of Salvador in such Colony or Possession.

"Such requisition may be disposed of, subject always, as nearly as may be, to the provisions of this Treaty, by the said Governor or chief authority, who, however, shall be at liberty either to grant the surrender or to refer the matter to his Government.

"Her Britannic Majesty shall, however, be at liberty to make

diferentes Gobiernos, para determinar la preferencia, ya sea en vista de la gravedad del crimen ó delito, ó ya por cualquiera otra causa.

"Artículo XIV.

"Si después de dos meses de la aprehension del fugitivo no se hubiere aducido prueba bastante para la extradición, será puesto en libertad.

"Artículo XV.

"Cualesquiera artículos que se embarguen á la persona aprehendida, si la autoridad competente del Estado requerido para la extradición ha ordenado la entrega de ellos, serán entregados al tiempo de verificarse aquella; y se hará no sólo de los artículos robados sino de todo lo que pueda servir como prueba del crimen.

"Artículo XVI.

"Las Altas Partes Contratantes renuncian á cualquier reclamacion por el reembolso de los gastos hechos en la captura y mantenimiento de la persona que há de entregarse, y en su conduccion hasta ponerla á bordo de el buque, comprometiéndose reciprocamente á hacer ellas mismas tales gastos.

"Artículo XVII.

"Las estipulaciones del presente Tratado serán applicables á las Colonias y Posesiones extranjeras de Su Majestad Británica.

"La peticion para la entrega de un criminal fugitivo que se haya refugiado en alguna de tales Colonias ó Posesiones extranjeras se hará al Gobernador ó principal autoridad de tal Colonia ó Posesion por el principal Agente Consular de la República del Salvador en dicha Colonia ó Posesion.

"Podrá darse curso á tales peticiones, sujetándose siempre la más aproximadamente posible á lo estipulado en este Tratado, por dicho Gobernador ó principal autoridad, quien, sin embargo, estará en libertad de conceder la entrega ó reffrir el asunto á su Gobierno.

"Su Majestad Británica quedará, sin embargo, en libertad de hacer

special arrangements in the British Colonies and foreign Possessions for the surrender of Salvadorian criminals who may take refuge within such Colonies and foreign Possessions, on the basis, as nearly as may be, of the provisions of the present Treaty.

"The requisition for the surrender of a fugitive criminal from any Colony or foreign Possession of Her Britannic Majesty shall be governed by the rules laid down in the preceding Articles of the present Treaty.

" Artículo XVIII.

"The present Treaty shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties, but shall remain in force for six months after notice has been given for its termination.

"The Treaty, after receiving the approval of the Congress of Salvador, shall be ratified and the ratifications shall be exchanged at London as soon as possible.

"In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

"Done at Paris, the twenty-third day of June, in the year of our Lord one thousand eight hundred and eighty-one.

"(L.S.) *Lyons.*
"(L.S.) *J. M. Torres*
"Caicedo."

arreglos especiales en las Colonias Británicas y Posesiones extranjeras para la entrega de los Salvadoreños criminales que puedan refugiarse dentro de tales Colonias y Posesiones extranjeras, observando, lo más que se pueda, las estipulaciones del presente Tratado.

"La demanda para la entrega de un criminal fugitivo de alguna Colonia ó Posesion extranjera de Su Majestad Británica estará sujeta á las reglas establecidas en los Artículos precedentes del presente Tratado.

" Artículo XVIII.

"El presente Tratado empezará á ejecutarse diez dias despues de su publicacion, de conformidad con las formas prescritas por las leyes de las Altas Partes Contratantes. Puede denunciarse por onalquiera de las Altas Partes Contratantes; pero permanecerá vigente por seis meses despues de haberse dado aviso para su terminacion.

"Este Tratado, despues de haber sido aprobado por el Congreso del Salvador, será ratificado, y las ratificaciones serán canjeadas en Lóndres tan pronto como sea posible.

"En fé de lo cual los respectivos Plenipotenciarios lo firman y sellan con el sello de sus armas.

"Hecho en Paris, el veinte y tres de Junio del año del Señor mil ochocientos ochenta y uno.

"(L.S.) *Lyons.*
"(L.S.) *J. M. Torres*
"Caicedo."

And whereas the ratifications of the said Treaty were exchanged at London, on the eighth day of November, one thousand eight hundred and eighty-two:

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and in virtue of the authority committed to Her by the said recited Acts, doth order, and it is hereby ordered, that from and after the thirteenth day of January, one thousand eight hundred and eighty-three, the said Acts shall apply in the case of Salvador, and of the said Treaty with the President of Salvador.

C. L. Peel.

(x) **San Marino.**

1900. No. 168.

At the Court at Windsor, the 3rd day of March, 1900.

PRESENT:

The Queen's Most Excellent Majesty.

Lord Chancellor.

Lord President.

Lord James of Hereford.

Whereas * * * [*Here follows the first recital to the Order relating to Belgium, printed at p. 20 above, with the substitution of "Her Majesty" for "His Majesty."*]

And whereas a Treaty was concluded on the 16th day of October, 1899, between Her Majesty and the Captains Regent of the Most Serene Republic of San Marino for the mutual extradition of fugitive criminals, which Treaty is in the terms following:—

"Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and the Most Serene Republic of San Marino, having judged it expedient, with a view to the better administration of justice and to the prevention

"Sua Maestà la Regina del Regno Unito della Gran Bretagna e d'Irlanda, Imperatrice delle Indie, e la Serenissima Repubblica di San Marino, avendo giudicato conveniente per la migliore amministrazione della giustizia e per prevenire i reati

of crime within their respective territories, that persons charged with or convicted of the crimes herein-after enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up, the said High Contracting Parties have named as their Plenipotentiaries to conclude a Treaty for this purpose, that is to say :

"Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, his Excellency Philip Henry Wodehouse, Baron Currie of Hawley, a Member of Her Most Honourable Privy Council, Knight Grand Cross of Her Most Honourable Order of the Bath, Her Ambassador Extraordinary and Plenipotentiary to His Majesty the King of Italy,

"And the Most Serene Republic of San Marino, his Excellency Cavaliere Paolo Onorato Vigliani, Patrician of San Marino, Grand Cross and Grand Cordon of the Order of Saint Maurice and Saint Lazarus, and of the Crown of Italy, Knight Grand Cross of the Most Distinguished Order of St. Michael and St. George, &c., &c., Minister of State, ex-President of the Court of Cassation, Senator of the Kingdom of Italy;

"Who, having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles :—

"ARTICLE I.

"The High Contracting Parties engage to deliver up to each other those persons who, being accused or convicted of a crime or offence committed in the territory of the one Party, shall be found within the territory of the other Party, under the circumstances and conditions stated in the present Treaty.

"ARTICLE II

"The crimes or offences for which the extradition is to be granted are the following :—

"1. Murder, or attempt, or conspiracy to murder, and manslaughter.

"2. Assault occasioning actual bodily harm. Malicious wounding or inflicting grievous bodily harm.

nei rispettivi loro territori, che gli individui accusati o condannati per i reati qui appresso enumerati, e che cerchino sottrarsi alla giustizia, sieno, in certi casi, reciprocamente consegnati, le dette Alte Parti Contraenti hanno nominato come loro Plenipotenziari per concludere un Trattato a questo scopo, cioè :

"Sua Maestà la Regina del Regno Unito della Gran Bretagna e d'Irlanda, Imperatrice delle Indie, sua Eccellenza Philip Henry Wodehouse, Barone Currie di Hawley, Membro dell'Onorevolissimo Consiglio Privato di Sua Maestà, Gran Croce dell'Onorevolissimo Ordine del Bagno, Ambasciatore Straordinario e Plenipotenziario presso Sua Maestà il Re d'Italia;

"E la Serenissima Repubblica di San Marino, sua Eccellenza il Cavaliere Paolo Onorato Vigliani, Patrizio di San Marino, Gran Croce decorato del Gran Cordone degli Ordini dei SS. Maurizio e Lazzaro, e della Corona d'Italia, Gran Croce del Distintissimo Ordine di San Michele e San Giorgio, Ministro di Stato, Presidente emerito di Corte di Cassazione, Senatore del Regno d'Italia, &c., &c. :

"I quali dopo essersi comunicati i rispettivi loro pieni poteri, trovati in buona e debita forma, hanno convenuto e concluso gli Articoli seguenti :—

"ARTICOLO I.

"Le Alte Parti Contraenti si obbligano di consegnarsi reciprocamente coloro i quali, essendo accusati o condannati per un misfatto commesso nel territorio di una di esse Parti, saranno trovati nel territorio dell'altra, nei modi e con le condizioni stabilite nel presente Trattato.

"ARTICOLO II.

"I misfatti per i quali è convenuta la estradizione sono i seguenti :—

"1. Omicidio volontario di qualunque grado e denominazione punibile secondo la legge di San Marino, tentativo, complicità, o cospirazione nel medesimo reato.

"2. Ferite o percosse volontarie, producenti gravi lesioni corporali secondo il Codice Penale di San Marino.

"3. Counterfeiting or altering money or uttering counterfeit or altered money.

"4. Knowingly making any instrument, tool, or engine adapted and intended for counterfeiting coin.

"5. Forgery, counterfeiting or altering or uttering what is forged, counterfeited, or altered.

"6. Embezzlement or larceny.

"7. Malicious injury to property if the offence be indictable.

"8. Obtaining, money, goods, or valuable securities by false pretences.

"9. Receiving money, valuable security, or other property, knowing the same to have been stolen, embezzled, or unlawfully obtained.

"10. Crimes against Bankruptcy Law.

"11. Fraud by a bailee, banker, agent factor, trustee, or director, or member or public officer of any company.

"12. Perjury, or subornation of perjury.

"13. Rape.

"14. Carnal knowledge, or any attempt to have carnal knowledge, of a girl under 16 years of age, so far as such acts are punishable by the law of the State upon which the demand is made.

"15. Indecent assault. Indecent assault, even with consent, upon children of either sex under 13 years of age.

"16. Administering drugs or using instruments with intent to procure the miscarriage of a woman.

"17. Abduction.

"18. Child stealing.

"19. Abandoning children, exposing or unlawfully detaining them.

"20. Kidnapping and false imprisonment.

"21. Burglary or house-breaking.

"22. Arson.

"23. Robbery with violence.

"3. Contraffazione o alterazione di moneta od emissione di moneta contraffatta o alterata.

"4. Sciente fabbricazione di qualsiasi strumento, ordigno od apparecchio adatto o destinato per la contraffazione di moneta.

"5. Falsificazione, contraffazione o alterazione od emissione della cosa falsificata, contraffatta o alterata.

"6. Furto od indebita sottrazione od appropriazione.

"7. Danni dolosi alla proprietà quando il reato è oggetto di procedimento formale.

"8. L'ottenuta consegna di denaro, oggetti o valori col mezzo di raggiro.

"9. Ricettazione di denaro, valori od altro di nota provenienza furtiva

"10. Bancarotta dolosa.

"11. Frode commessa da un depositario, banchiere, agente, amministratore, curatore, o direttore, o membro o pubblico ufficiale di qualsiasi compagnia.

"12. Spergiuero o subornazione allo spergiuero.

"13. Violenza carnale.

"14. Commercio carnale o tentativo di commercio carnale con una minore degli anni sedici, in quanto tali atti siano punibili dalla legge dello Stato richiesto.

"15. Attentato al pudore con qualsiasi violenza. Qualunque altro attentato al pudore su persone dell'uno o dell'altro sesso (anche con loro consenso) quando siano di età inferiore ai tredici anni.

"16. Somministrazione di medicinali od uso di strumenti allo scopo di procurare l'aborto ad una donna.

"17. Rapimento di persona.

"18. Sottrazione di fanciulli.

"19. Abbandono, esposizione, ed abusiva detenzione di fanciulli.

"20. Sottrazione ed abusivo sequestro di persona.

"21. Burglary e housebreaking, comprendendosi sotto queste designazioni l'atto di chi di notte tempo, o anche di giorno, si introduce mediante rottura o scalata, o per mezzo di chiave falsa od altro strumento, nell'altrui abitazione per commettere un reato.

"22. Incendi dolosi.

"23. Furto con violenza.

"24. Any malicious act done with intent to endanger the safety of any person in a railway train.*

"25. Threats by letter or otherwise, with intent to extort.

"26. Piracy by law of nations.

"27. Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

"28. Assaults on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.

"29. Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.

"30. Dealing in slaves in such a manner as to constitute a criminal offence against the laws of both States.

"Extradition is also to be granted for participation in any of the aforesaid crimes, provided such participation be punishable by the laws of both the Contracting Parties.

"Extradition may also be granted, at the discretion of the State applied to, in respect of any other crime for which, according to the laws of both the Contracting Parties for the time being in force, the grant can be made

"ARTICLE III.

"Either Government may, in its absolute discretion, refuse to deliver up its own subjects to the other Government.

"ARTICLE IV.

"The extradition shall not take place if the person claimed on the part of the British Government, or the person claimed on the part of the Government of the San Marino, has already been tried and discharged or punished, or is actually upon his trial, within the territory of the other of the two High Contracting Parties, for the crime for which his extradition is demanded.

"If the person claimed on the part of the British Government, or if the person claimed on the part of the Government of San Marino, should be under examination, or be undergoing sentence under a conviction, for any other crime within the territories of the two High Contracting

"24. Qualsiasi atto doloso commesso con l'intento di mettere in pericolo l'incolumità di qualunque persona in un convoglio ferroviario.

"25. Minacce per lettera o per altro modo, all'intento di estorsione.

"26. Pirateria, secondo il diritto internazionale.

"27. Sommersione o distruzione di nave in mare, o tentativo ovvero cospirazione a tale oggetto

"28. Assalto a bordo di una nave in alto mare col fine di uccidere o di produrre gravi danni corporali.

"29. Rivolta o cospirazione di rivolta di due o più persone a bordo di una nave in alto mare contro l'autorità del capitano.

"30. Commercio di schiavi in maniera tale da costituire reato contro le leggi di entrambi gli Stati

"Sarà pure accordata la estradizione di coloro che avranno partecipato ad alcuno dei suddetti reati, purchè tale partecipazione sia punibile secondo le leggi di entrambi le Parti Contraenti.

"La estradizione può anche essere accordata, a discrezione dello Stato richiesto, per qualsiasi altro reato per il quale, a tenore delle leggi vigenti di entrambe le Parti Contraenti, essa possa essere accordata.

"ARTICOLO III.

"Sarà in facoltà di ciascun Governo rifiutare di consegnare i propri nazionali all'altro Governo.

"ARTICOLO IV.

"La estradizione non avrà luogo se l'individuo domandato dal Governo Britannico, o dal Governo di San Marino, sia stato già processato ed assolto o punito, ovvero sia effettivamente sotto processo entro il territorio dell'altra delle due Alte Parti Contraenti, per il reato per cui chiedesi la sua estradizione.

"Se l'individuo domandato dal Governo Britannico, o dal Governo di San Marino, fosse sotto istruttoria, o in espiazione di pena in seguito a condanna, per qualsiasi altro reato entro i territori di entrambi le Alte Parti Contraenti rispettivamente, la sua estradizione verrà differita fino al

Parties respectively, his extradition shall be deferred until after he has been discharged, whether by acquittal, or on expiration of his sentence, or otherwise.

"ARTICLE V.

"The extradition shall not take place if, subsequently to the commission of the crime, or the institution of the penal prosecution or the conviction thereon, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the State applied to.

"ARTICLE VI.

"A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character.

"ARTICLE VII.

"A person surrendered can in no case be kept in prison, or be brought to trial in the State to which the surrender has been made, for any other crime, or on account of any other matters, than those for which the extradition shall have taken place, until he has been restored or had an opportunity of returning to the State by which he has been surrendered.

"This stipulation does not apply to crimes committed after the extradition.

"ARTICLE VIII.

"The requisition for extradition shall be made in the following manner :—

"Application on behalf of Her Britannic Majesty's Government for the surrender of a fugitive criminal in San Marino shall be made by Her Majesty's Consul for the Republic of San Marino.

"Application on behalf of the Republic of San Marino for the surrender of a fugitive criminal in the United Kingdom shall be made either direct by the Captains-Regent or by the Consul of the Republic accredited to the British Government in London.

"The requisition for the extradition of an accused person must be

suo rilascio, sia in seguito ad assoluzione sia per aver scontata la condanna, od altrimenti.

"ARTICOLO V.

"Non sarà accordata la estradizione se dal commesso misfatto, dall'iniziato procedimento, o dalla condanna, si sia avverata la prescrizione dell'azione penale, o della pena, in base alle leggi dello Stato richiesto.

"ARTICOLO VI.

"Non verrà consegnato il delinquente fuggitivo se il reato per il quale viene chiesta la estradizione è di carattere politico, ovvero se egli prova che la domanda della sua consegna è fatta con l'intendimento di giudicarlo o di punirlo per un reato politico.

"ARTICOLO VII.

"L'individuo consegnato non potrà in verun caso essere detenuto in prigione o sottoposto a giudizio nello Stato a cui fu consegnato per qualsiasi reato o per altre ragioni diverse da quelle per le quali avvenne la estradizione, fino a tanto che non sia stato liberato o non abbia avuto l'opportunità di ritornare nello Stato da cui fu consegnato.

"Ciò non si applica ai reati commessi dopo la estradizione.

"ARTICOLO VIII.

"Le domande di estradizione saranno fatte come appresso :—

"Il Governo di Sua Maestà Britannica farà la sua domanda per la consegna di un delinquente fuggitivo in San Marino per mezzo del Console di Sua Maestà presso la Repubblica di San Marino.

"La Repubblica di San Marino farà la sua domanda per la consegna di un delinquente fuggitivo nel Regno Unito o direttamente per mezzo dei Capitani Reggenti, ovvero per mezzo del suo Console accreditato a Londra presso il Governo Britannico.

"La domanda di estradizione di un accusato deve essere accompagnata

Extradition :—San Marino.

accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition, and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there.

"If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent Court of the State that makes the requisition for extradition.

"A sentence passed in *contumacia* is not to be deemed a conviction, but a person so sentenced may be dealt with as an accused person.

"ARTICLE IX.

"If the requisition for extradition be in accordance with the foregoing stipulations, the competent authorities of the State applied to shall proceed to the arrest of the fugitive.

"ARTICLE X.

"If the fugitive has been arrested in the British dominions, he shall forthwith be brought before a competent Magistrate, who is to examine him and to conduct the preliminary investigation of the case, just as if the apprehension had taken place for a crime committed in the British dominions.

"In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the British dominions shall admit as valid evidence the sworn deposition or the affirmations of witnesses taken in San Marino, or copies thereof, and likewise the warrants and sentences issued therein, and certificates of, or judicial documents stating the fact of, a conviction, provided the same are authenticated as follows :—

"1. A warrant must purport to be signed by a Judge, Magistrate, or officer of the Republic of San Marino.

"2. Depositions or affirmations, or the copies thereof, must purport to be certified under the hand of a Judge, Magistrate, or officer of the Republic of San Marino, to be the original depositions or affirmations, or to be the true copies thereof, as the case may require.

da un mandato di cattura da una autorità competente dello Stato richiedente la estradizione, e da tale prova che, secondo il luogo dove l'accusato è trovato, giustificerebbe il suo arresto se il crimine fosse stato qui commesso.

"Se la domanda riguarda un già condannato, deve essere accompagnata da una sentenza di condanna della Corte dello Stato richiedente estradizione.

"Una sentenza pronunciata in contumacia non può ritenersi condanna; ma l'individuo potrà essere trattato come un accusato.

"ARTICOLO I

"Se la domanda di estradizione sarà conforme agli anzidetti requisiti, le autorità competenti dello Stato richiesto procederanno all'arresto del fuggitivo.

"ARTICOLO II

"Se il fuggitivo è stato arrestato nei domini Britannici, egli sarà immediatamente portato dinanzi a un competente Magistrato, il quale lo esaminerà ed eseguirà le indagini preliminari del fatto, nel modo stesso che se la cattura fosse avvenuta per un reato commesso in Britannici.

"Le autorità nei domini negli esami che debbono fare, in conformità delle stipulazioni precedenti, dovranno ammettere come prova valida le deposizioni o dichiarazioni dei testimoni prese in San Marino, o copie di esse, e similmente le sentenze ivi emanate, e i documenti giudiziali che attestano la condanna, purchè siano autenticati come appresso :—

"1. Un mandato di cattura deve purportare di essere firmato da un Giudice, Magistrato, od ufficiale della Repubblica di San Marino.

"2. Le deposizioni o affermazioni, o le copie di esse, si devono purportare certificate come vere copie, o come vere copie, a seconda di un Giudice, Magistrato, od ufficiale della Repubblica di San Marino.

"3. A certificate of or judicial document stating the fact of a conviction must purport to be certified by a Judge, Magistrate, or officer of the Republic of San Marino.

"4. In every case such warrant, deposition, affirmation, copy, certificate, or judicial document must be authenticated either by the oath of some witness, or by being sealed with the official seal and legalization of the Republic of San Marino; but any other mode of authentication for the time being permitted by the law in that part of the British dominions where the examination is taken may be substituted for the foregoing.

" ARTICLE XI.

"If the fugitive has been arrested in the Republic of San Marino, his surrender shall be granted if, upon examination by a competent authority, it appears that the documents furnished by the British Government contain sufficient *prima facie* evidence to justify the extradition.

"The authorities of the Republic shall admit as valid evidence records drawn up by the British authorities of the depositions of witnesses, or copies thereof, and records of conviction or other judicial documents, or copies thereof: Provided that the said documents be signed or authenticated by an authority whose competence shall be certified by the seal of a Minister of State of Her Britannic Majesty.

" ARTICLE XII.

"The extradition shall not take place unless the evidence be found sufficient, according to the laws of the State applied to, either to justify the committal of the prisoner for trial, in case the crime had been committed in the territory of the said State, or to prove that the prisoner is the identical person convicted by the Courts of the State which makes the requisition, and that the crime of which he has been convicted is one in respect of which extradition could, at the time of such conviction, have been granted by the State applied to. In Her Britannic Majesty's dominions the fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison to await his surrender.

"3. Un certificato o documento giudiziario di condanna si deve presupporre certificato da un Giudice, Magistrato, od ufficiale della Repubblica di San Marino.

"4. In ogni caso tale mandato, deposizione, dichiarazione, copia, certificato o documento giudiziario deve essere autenticato sia col giuramento di qualche testimone, o contrassegnato col sigillo ufficiale e con la legalizzazione della Repubblica di San Marino; ma qualsiasi altra forma di autenticazione consentita dalla legge vigente in quella parte dei domini Britannici dove viene eseguito l'esame può essere sostituita alle precedenti.

" ARTICOLO XI.

"Se il fuggitivo è stato arrestato nella Repubblica di San Marino, la sua consegna sarà accordata se, previo esame condotto da una competente autorità risulti che i documenti forniti dal Governo Britannico contengono prova sufficiente, *prima facie*, da giustificare la estradizione.

"Le autorità della Repubblica riconosceranno come prova valida i verbali redatti dalle autorità Britanniche delle deposizioni dei testimoni, o copia di essi, ed i verbali di condanna od altri documenti giudiziari, o copie degli stessi, purchè i detti documenti siano firmati ed autenticati da un'autorità la cui competenza sarà certificata mediante il sigillo di un Ministro di Stato di Sua Maestà Britannica.

" ARTICOLO XII.

"La estradizione non avrà luogo a meno che la prova sia trovata sufficiente, secondo le leggi dello Stato richiesto, a giustificare o il rinvio del detenuto a giudizio, nel caso che il reato fosse stato commesso nel territorio del suddetto Stato, ovvero dimostrare che il catturato è l'identica persona condannata dai Tribunali dello Stato richiedente, e che il reato per il quale è stato condannato sia uno di quelli pei quali la estradizione avrebbe potuto, all'epoca di tale condanna essere accordata dallo Stato richiesto. Nei domini di Sua Maestà Britannica il delinquente fuggitivo non sarà consegnato se non saranno decorati quindici giorni dal di della sua incarcerazione in attesa della sua consegna.

"ARTICLE XIII.

"If the individual claimed by one of the two High Contracting Parties, in pursuance of the present Treaty, should be also claimed by one or several other Powers, on account of other crimes or offences committed upon their respective territories, his extradition shall be granted to that State whose demand is earliest in date.

"ARTICLE XIV.

"If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, or within such further time as the State applied to, or the proper Tribunal thereof, shall direct, the fugitive shall be set at liberty.

"ARTICLE XV.

"All articles seized which were in the possession of the person to be surrendered, at the time of his apprehension, shall, if the competent authority of the State applied to for the extradition has ordered the delivery thereof, be given up when the extradition takes place, and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof of the crime.

"ARTICLE XVI.

"The expenses of arresting, maintaining, and transporting the person whose extradition is applied for, as well as those of handing over and transporting the property and articles, which, by the preceding Article, must be restored or given up, shall be borne by the two States within the limits of their respective territories.

"The expenses of transport or other necessary expenses by sea or through the territories of a third State shall be borne by the demanding State.

"ARTICLE XVII.

"Either of the High Contracting Parties who may wish to have recourse for purposes of extradition to transit through the territory of a third Power shall be bound to arrange the condition of transit with such third Power.

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"ARTICOLO XIII.

"Se l'individuo domandato da una delle due Alte Parti Contraenti in conformità del presente Trattato è anche domandato da un altro o da altri Stati per reati commessi nei rispettivi loro territori, la consegna di lui sarà accordata a quello Stato la cui domanda è di data anteriore.

"ARTICOLO XIV.

"Se prova sufficiente per la estradizione non è prodotta nel termine di due mesi dalla cattura del fuggitivo, o entro quel termine maggiore che verrà stabilito dallo Stato richiesto, o dal suo competente Tribunale, il fuggitivo sarà posto in libertà.

"ARTICOLO XV.

"Tutti gli oggetti sequestrati e trovati in possesso dell'individuo da consegnarsi, al momento della sua cattura, saranno, qualora l'autorità competente dello Stato richiesto per la estradizione ne abbia ordinata la consegna, resi quando viene effettuata la estradizione, e la detta restituzione non si restringerà solamente agli oggetti provenienti dal furto, o da altro reato, ma comprenderà qualunque cosa che possa servire di prova del reato.

"ARTICOLO XVI.

"Le spese occasionate dall'arresto, mantenimento, e trasporto dell'individuo di cui si chiede la estradizione, come pure quelle occorse per la consegna e trasporto degli effetti di proprietà e degli oggetti che a tenore dell'Articolo precedente debbano essere restituiti e consegnati, resteranno a carico dei due Stati entro i confini dei rispettivi territori.

"Le spese di trasporto od altre spese necessarie per mare, od attraverso i territori di un terzo Stato, resteranno a carico dello Stato richiedente.

"ARTICOLO XVII.

"Ciascuna delle Alte Parti Contraenti che desiderasse ricorrere per motivi di estradizione al transito per il territorio di una terza Potenza, sarà obbligata di stabilirne le condizioni con tale terza Potenza.

"ARTICLE XVIII

"When in a criminal case of a non-political character either of the High Contracting Parties should think it necessary to take the evidence of witnesses residing in the dominions of the other, or to obtain any other legal evidence, a 'Commission Rogatoire' to that effect shall be sent through the channel indicated in Article VIII., and effect shall be given thereto conformably to the laws in force in the place where the evidence is to be taken.

"ARTICLE XIX.

"The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of Her Britannic Majesty, so far as the laws for the time being in force in such Colonies and foreign possessions respectively will allow.

"The requisition for the surrender of a fugitive criminal who has taken refuge in any of such Colonies or foreign possessions may be made to the Governor or chief authority of such Colony or possession by any person authorized to act in such Colony or possession as a Consular officer of the Republic of San Marino.

"Such requisitions may be disposed of, subject always, as nearly as may be, and so far as the law of such Colony or foreign possession will allow, to the provisions of this Treaty, by the said Governor or chief authority, who, however, shall be at liberty either to grant the surrender or to refer the matter to his Government.

"Her Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of criminals from San Marino who may take refuge within such Colonies and foreign possessions, on the basis, as nearly as may be, and so far as the law of such Colony or foreign possession will allow, of the provisions of the present Treaty.

"Requisitions for the surrender of a fugitive criminal emanating from any Colony or foreign possession of Her Britannic Majesty shall be governed by the rules laid down in the preceding Articles of the present Treaty

"ARTICOLO XVIII.

"Quando in un procedimento penale, non avente carattere politico, una delle Alte Parti Contraenti giudicasse necessario raccogliere la deposizione di testimoni domiciliati nei domini dell'altra, o di ottenere qualsiasi altro atto d'istruzione giudiziaria, saranno a tale effetto dirette per il tramite indicato nell'Articolo VIII., lettere rogatorie, alle quali sarà dato corso conforme alle leggi vigenti nel luogo dove deve essere raccolta la prova.

"ARTICOLO XIX.

"I patti del presente Trattato si applicheranno alle Colonie ed ai possedimenti stranieri di Sua Maestà Britannica nel limite consentito dalle leggi vigenti in dette Colonie e possedimenti stranieri, rispettivamente.

"La domanda per la consegna di un delinquente il quale si sia rifugiato in alcuna delle dette Colonie o possedimenti stranieri, potrà essere fatta al Governatore od all'autorità suprema di tale Colonia o possedimento da qualsiasi persona autorizzata in tale Colonia o possedimento a disimpegnare le funzioni di ufficiale Consolare della Repubblica di San Marino.

"Su tali domande potrà essere provveduto, in conformità, per quanto è possibile, dei patti di questo Trattato, dai rispettivi Governatori o dall'autorità suprema, le quali tuttavia avranno la facoltà di accordare la estradizione o di riferirne al proprio Governo.

"Sua Maestà Britannica nondimeno potrà adottare speciali provvedimenti nelle Colonie Britanniche e nei possedimenti stranieri per la consegna dei delinquenti di San Marino che si fossero rifugiati in dette Colonie o possedimenti, in base, per quanto sia possibile, e nei limiti consentiti dalla legge di tale Colonia o possedimento Britannico, dei patti del presente Trattato.

"Le domande per la consegna di un delinquente fuggitivo emanate da qualsiasi Colonia o possedimento straniero di Sua Maestà Britannica saranno regolate dalle norme espresse nei precedenti Articoli del presente Trattato.

"ARTICLE XX.

"The present Treaty shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties at any time on giving to the other six months' notice of its intention to do so.

"The Treaty shall be ratified, and the ratifications shall be exchanged at Rome as soon as possible.

"In witness whereof the respective Plenipotentiaries have signed the present Treaty in duplicate in English and Italian, and have affixed thereto the seal of their arms.

"Done at Florence, the 16th day of October, 1899.

"ARTICOLO XX.

"Il presente Trattato andrà in vigore dieci giorni dopo la sua pubblicazione secondo le forme prescritte dalle leggi delle Alte Parti Contraenti. Ciascuna delle Alte Parti potrà, in ogni tempo, porre fine a questo Trattato previa denuncia di sei mesi.

"Questo Trattato sarà ratificato, e le ratificazioni saranno scambiate a Roma al più presto possibile.

"In fede di che i rispettivi Plenipotenziari hanno firmato in doppio originale, Inglese ed Italiano, questo Trattato, e vi hanno apposto il rispettivo sigillo.

"Fatto a Firenze, 16 Ottobre, 1899.

"(L.S.) CURRIE.

"(L.S.) P. O. VIGLIANI."

And whereas the ratifications of the said Treaty were exchanged at Rome on the 5th day of December, 1899 :

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and in virtue of the authority committed to Her by the said recited Acts, doth order, and it is hereby ordered, that from and after the nineteenth day of March, 1900, the said Acts shall apply in the case of San Marino, and of the said Treaty with the Captains Regent of the Republic of San Marino :

Provided always that the operation of the said Acts shall be and remain suspended within the Dominion of Canada so long as an Act of the Parliament of Canada passed in 1886,* and entitled "An Act respecting the extradition of Fugitive Criminals," shall continue in force there, and no longer.

A. W. FitzRoy.

* "The Extradition Act" (Revised Statutes of Canada, c. 142).

(y) **Servia.**

1901. No. 586.

At the Court at St. James's, the 15th day of June, 1901.

PRESENT :

The King's Most Excellent Majesty.

Lord Privy Seal.

Duke of Richmond and Gordon.

Duke of Rutland.

Earl Waldegrave.

Earl Brownlow.

Lord Currie.

Mr. Gerard Noel.

Sir Dighton Probyn.

Whereas * * * [*Here follows the first recital to the Order relating to Belgium, printed at p. 20 above.*]

And whereas a Treaty was concluded on the 6th day of December, 1900, between Her late Majesty Queen Victoria and His Majesty the King of Servia for the mutual extradition of fugitive criminals, which Treaty is in the terms following :—

<p>"Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Majesty the King of Servia,</p>	<p>"Нјегово Величанство Краљ Србије и Нјено Величанство Краљица Сједињене Краљевине Велике Британије и Ирске.</p>
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having judged it expedient, with a view to the better administration of justice and to the prevention of crime within their respective territories, that persons charged with or convicted of the crimes herein after enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up; the said High Contracting Parties have named as their Plenipotentiaries to conclude a Treaty for this purpose, that is to say :

"Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, Sir George Francis Bonham, a Baronet of the United Kingdom, Her Envoy Extraordinary and Minister Plenipotentiary to His Majesty the King of Servia ;

"And His Majesty the King of Servia, His Excellency Monsieur Alexa S. Jovanović, His President of the Council of Ministers, Minister for Foreign Affairs, Member of the Council of State, Grand Officer of the Order of Milosh the Great, Grand Cross of the Order of Takovo, Officer of the Order of the White Eagle, Commander of the Order of St. Sava, Grand Cross of the Order of Osmanieh, etc., etc. ;

"Who, having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles :—

"Article I.

"The High Contracting Parties engage to deliver up to each other those persons who, being accused or convicted of a crime or offence committed in the territory of the one Party, shall be found within the territory of the other Party, under the circumstances and conditions stated in the present Treaty.

Царица Индије, налазећи за добро, ради боље администрације правосуђа и сиречавања злочина у Својим земљама, да се она лица, која су оптужена или осуђена за казним дела ниже побројана, а која се налазе у бегству, под извесним околностима узajамно издају; речене Високе Уговорне Стране наименовале су за Своје пуномоћнике, који ће у горњој цели закључити Уговор, и то :

"Његово Величанство Краљ Србије, Господина Алексу С. Јовановића, Председника Свога Министарскога Савета, Министра Иностранних Дела, Члана Државнога Савета, имаоца ордена Милоша Великога II степена, Таковскога Крста првога степена, Велог Ора IV степена, Светога Саве III степена, Османлије I степена, итд. итд.

"И Њено Величанство Краљица Сједињене Краљевине Велике Британије и Ирске, Царица Индије, Сера Џорџа Франсиса Вонхам, баронета Сједињене Краљевине, Свога Изванреднога Посланика и Пуномоћнога Министра код Његовога Величанства Краља Србије

"Који, пошто су показали своја пуномоћја и нашли их у исправној и уобичајеној форми, сагласили су се и утврдили следеће чланке :

"Члан I.

"Високе Уговорне Стране обвезују се да једна другој узajамно издају она лица, која су оптужена или осуђена за злочин или преступ учињен у земљи једне уговорнице, а која би се налазила на земљишту друге Стране, под околностима и условима побројаним у овом Уговору.

"Article II.

"The crimes or offences for which the extradition is to be granted are the following :—

"1. Murder, or attempt, or conspiracy to murder.

"2. Manslaughter.

"3. Assault occasioning actual bodily harm. Maliciously wounding or inflicting grievous bodily harm.

"4. Counterfeiting or altering money, or uttering counterfeit or altered money.

"5. Knowingly making any instrument, tool, or engine adapted and intended for counterfeiting coin.

"6. Forgery, counterfeiting, or altering or uttering what is forged, or counterfeited, or altered.

"7. Embezzlement or larceny.

"8. Malicious injury to property, by explosives or otherwise, if the offence be indictable.

"9. Obtaining money, goods, or valuable securities by false pretences.

"10. Receiving money, valuable security, or other property, knowing the same to have been stolen, embezzled, or unlawfully obtained.

"11. Crimes against bankruptcy law.

"12. Fraud by a bailee, banker, agent, factor, trustee, or director, or member, or public officer of any Company, made criminal by any law for the time being in force.

"Члан II.

"Злочини или преступни, услед којих ће се издавање дозволити, они су :

"1. Убиства, покушаји убиства или завереничке припреме за извршење убиства.

"2. Просто убиство.

"3. Напад са намереним телесним повредама. Ране и тешке телесне повреде, намерно учињене.

"4. Подражавање или преничавање новца, као и протурање подражаног или прениченог новца.

"5. Хотимично прављење справа, алата или машина, који су удешени или намењени за подражавање новца.

"6. Фалсификовање, подражавање или преничавање, као и протурање оног, што је фалсификовано, подражавано или преничено.

"7. Утаја или крађа.

"8. Вломерна повреда имања помоћу експлозивних средстава или иначе, ако се дело казни по значајној дужности.

"9. Измамљивање новца, робе, или хартије од вредности, помоћу лажних навода и лажних твђења.

"10. Примање коваца, хартија од вредности, или других ствари, кад кривац зна да су те ствари украдене, утајене или у опште на незаконит начин добијене.

"11. Злочин противу закона о банкрутству.

"12. Превара, коју учини депозитар, банкар, агент, фактор, пуномоћник или куратор, директор, члан или ма каква јавна чиновник ма каквог друштва, кад достојећи законн овакву превару кажњавају као злочин.

"13. Perjury, or subornation of perjury.

"14. Rape.

"15. Carnal knowledge, or any attempt to have carnal knowledge, of a girl under 14 years of age.

"16. Indecent assault.

"17. Procuring miscarriage, administering drugs, or using instruments with intent to procure the miscarriage of a woman.

"18. Abduction.

"19. Child stealing.

"20. Abandoning children, exposing or unlawfully detaining them.

"21. Kidnapping and false imprisonment.

"22. Burglary or housebreaking.

"23. Arson.

"24. Robbery with violence.

"25. Any malicious act done with intent to endanger the safety of any person in a railway train.

"26. Threats by letter or otherwise, with intent to extort.

"27. Piracy by law of nations.

"28. Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

"29. Assaults on board a ship on the high seas, with intent to destroy life, or do grievous bodily harm.

"30. Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.

"31. Dealing in slaves.

"13. Кривоклество или навођење на кривоклество.

"14. Силовање.

"15. Блуд, или покушај блуда, с девојком испод 14 година старости.

"16. Кривична дела противу чедности.

"17. Побацивање деце, давање лекова, или употребљавање инструмената, с намером да се изврши побацивање.

"18. Отмица.

"19. Отмица деце.

"20. Напуштање, натеривање на прошњу, или незаконито задржавање деце.

"21. Одвођење, или хапшење, помоћу лажних средстава.

"22. Насилно продирање поћу или дању у кућу или друго затворене зграде.

"23. Паљевина.

"24. Разбојништво.

"25. Ма какво злонамерно дело учињено у цели да изложи опасности лица у железничком позу.

"26. Претње учињене писмом или иначе, ради напуштања новца.

"27. Разбојништво на мору (гусарство) према међународном праву.

"28. Дела, којима се произазукује рушење или пропаст лађе на мору, или покушај, или договор да се то учини.

"29. Напади на лађи на отвореном мору у цели да се произазукује опасност за живот или тешке телесне повреде.

"30. Побуна, или договор за побуну двају или више лица на лађи на отвореном мору противу капетана исте.

"31. Трговина робљем.

"Extradition is also to be granted for participation in any of the aforesaid crimes, provided such participation be punishable by the laws of both the Contracting Parties.

" Article III.

"Either Government may, in its absolute discretion, refuse to deliver up its own subjects to the other Government.

" Article IV.

The extradition shall not take place if the person claimed has already been tried and discharged or punished, or is still under trial, within the territories of the two High Contracting Parties respectively, for the crime for which his extradition is demanded.

"If the person claimed should be under examination, or is undergoing sentence under a conviction for any other crime within the territories of the two High Contracting Parties respectively, his extradition shall be deferred until after he has been discharged, whether by acquittal or on expiration of his sentence, or otherwise.

" Article V.

"The extradition shall not take place if, subsequently to the commission of the crime, or the institution of the penal prosecution, or the conviction thereon, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the State applied to.

" Article VI.

"A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character.

"Тако исто издавање ће се дозволити у случају саучешћа у горе означеним делима, кад је такво саучешће казнимо законима обеју Уговорних Страна.

" Члан III.

"Свака Уговорна Страна може, по своме нахођењу, одбити издавање Својих сопствених поданика другој Страни.

" Члан IV.

"Издавање неће се дозволити, ако је лице чије се издавање захтева било већ окривљено и ослобођено, или осуђено или још окривљено у земљама Уговорних Страна за кривично дело, због кога се издавање тражи.

"Ако је лице, чије се издавање захтева, под кривичном истрагом или држава казну за ма какво друго кривично дело у земљама Уговорних Страна, његово се издавање неће дозволити, док оно не буде пуштено, било ослобођењем судским, било држављанством, или иначе.

" Члан V.

"Издавање неће се дозволити ако је, према законима умовене Државе, после извршеног дела, или почетка кривичне истраге или осуде наступила застарелост кривичне истраге или казне.

" Члан VI.

"Одбегли кривац неће се издати ако је дело, због којег се његово издавање тражи, политичко, или ако он (кривац) докаже да је молба за његово издавање учињена у цели да се над њим поведе кривична истрага или да се он казни за дело политичке природе.

"Article VII.

"A person surrendered can in no case be kept in prison, or be brought to trial in the State to which the surrender has been made, for any other crime or on account of any other matters than those for which the extradition shall have taken place, until he has been restored or had an opportunity of returning to the State by which he has been surrendered.

"This stipulation does not apply to crimes committed after the extradition.

"Article VIII.

"The requisition for extradition shall be made through the Diplomatic Agents of the High Contracting Parties respectively.

"The requisition for the extradition of the accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition, and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there.

"If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent Court of the State that makes the requisition for extradition.

"A sentence passed *in contumaciam* is not to be deemed a conviction, but a person so sentenced may be dealt with as an accused person.

"Article IX.

"If the requisition for extradition be in accordance with the foregoing stipulations, the competent authorities of the State applied to shall proceed to the arrest of the fugitive.

"Члан VII.

"Издамо лице никако неће се моћи задржати у затвору или оптужити у земљи, којој је издавање дозвољено, за ма какав други злочин или за ма какво друго дело, за које издавање није тражено, осим ако је већ било враћено или је имало могућности да се врати у земљу која га је издала.

"Ова се тачка не тиче злочина учињеног после издавања.

"Члан VIII.

"Издавање тражиће се преко дипломатских заступника Високих Уговорних Страна.

"Тражењу за издавање окривљеног лица треба да буду приложени: наредба о стављању у притвор, издата од стране надлежне власти Државе која тражи издавање, и докази који би, према законима места где се окривљено лице налази, оправдали његово стављање у притвор у случају да је дело учињено тамо.

"У случају да се тражи издавање лица, које је већ осуђено, треба тражењу приложити осудну пресуду, издату од стране надлежног суда у земљи, која тражи издавање.

"Пресуда изречена *in contumaciam*, неће се сматрати као осудна пресуда али са тако осуђеним лицем моћи ће се поступити као с окривљеним лицем.

"Члан IX.

"Ако су у тражењу издавања горњи услови испуњени, надлежне власти умољене Државе одмах ће притворити одбегло лице.

"Article X.

"If the fugitive has been arrested in the British dominions, he shall forthwith be brought before a competent Magistrate, who is to examine him and to conduct the preliminary investigation of the case, just as if the apprehension had taken place for a crime committed in the British dominions.

"In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the British dominions shall admit as valid evidence the sworn depositions or the affirmations of witnesses taken in Servia, or copies thereof, and likewise the warrants and sentences issued therein, and certificates of, or judicial documents stating the fact of, a conviction, provided the same are authenticated as follows:—

"1. A warrant must purport to be signed by a Judge, Magistrate, or Judicial Officer of Police of Servia.

"2. Depositions or affirmations, or the copies thereof, must purport to be certified under the hand of a Judge, Magistrate, or Judicial Officer of Police of Servia, to be the original depositions or affirmations, or to be the true copies thereof, as the case may require.

"3. A certificate of or judicial document stating the fact of a conviction must purport to be certified by a Judge, Magistrate, or Judicial Officer of Police of Servia.

"4. In every case such warrant deposition, affirmation, copy, certificate, or judicial document must be authenticated either by the oath of some witness, or by being sealed with the official seal of the Minister of Justice or of Foreign Affairs of Servia; but any other mode of authentication for the time being permitted by the law in that part of

"Члан X.

"Ако је одбегло лице притворено у британским територијама, онда ће одмах бити сprovedено надлежном судији, који ће га испитати и водити претходну истрагу, као да је дотично лице стављено у притвор због дела учињеног у британским територијама.

"У овој истрази, коју морају водити у смислу горњих одредаба, британске ће власти примати као вредне доказе оне заједете исказе или тврђења сведока примљена у Србији или преписе истих, а тако исто и налоге о притвору, решења у њима наречена и уверења или судска документа, која потврђују да је дотично лице осуђено, ако су саме ова документа потврђена на следећи начин:

"1. Наредбу о притвору треба да потпише судија, судски чиновник или судско-полицјски чиновник српски.

"2. За исказе и тврђења или преписе ових треба својим потписом судија, судски чиновник или судско-полицјски чиновник српски да тврде, да су то досада оригинални искази или тврђења, односно верни преписи истих према околностима.

"3. Уверење, или судски докуменат који потврђује да постоји осуда, треба да потпише судија, судски чиновник или судско-полицјски чиновник српски.

"4. На сваки начин овака наредба о притвору, наказ, тврђење, препис, уверење или судски докуменат, треба да буду оверени било закљетком сведока, било званичним печатом српског Министарства Правде или Министарства Иностранних Дела; осим тога може и на какав други начин оверења, који је у дотично време

Extradition :—Servia.

the British dominions where the examination is taken may be substituted for the foregoing.

"Article XI.

"On the part of the Servian Government the extradition shall take place as follows in Servia :—

"The Minister, or other Diplomatic Agent of Her Britannic Majesty in Servia, shall send to the Minister for Foreign Affairs, in support of each demand for extradition, an authentic and duly legalized copy either of a certificate of condemnation, or of a warrant of arrest against an incriminated or accused person, showing clearly the nature of the crime or offence on account of which proceedings are being taken against the fugitive. The judicial document so produced shall be accompanied by a description and other particulars serving to establish the identity of the person whose extradition is claimed.

"In case the documents produced by the British Government to establish the identity, and the particulars gathered by the Servian police authorities for the same purpose, should be deemed to be insufficient, notice thereof shall forthwith be given to the Minister or other Diplomatic Agent of Her Britannic Majesty in Servia, and the individual whose extradition is desired, if he has been arrested, shall remain in detention until the British Government has produced new elements of proof to establish his identity, or to clear up any other difficulties arising in the examination.

"Article XII.

"The extradition shall not take place unless the evidence be found sufficient according to the laws of the State applied to, either to justify the committal of the prisoner for trial, in case the crime had been

законом дозвољен у британских покрајина: води истрага, бити при горијега.

"Члан XI

"Од стране срп издавање ће се врш дећи начин :

"Посланик или дипломатски агент Њеног Величанства у Срби Министру Иностраности сваку молбу за издавање и надлежно овлашћено уверење о осуде редбе да се окривљени жено лице стави у којих ће се документи видети природа злочина, због којег је кривична истрага по беглог кривца. Тако судском документу при лични опис и друг потребни за потврду ности лица чије се тражи.

"У случају да док буде британска Влада за потврду идентичности, које буде српске прибавила у истом циљу, сматрани за довољне, теме одмах известити или други дипломат Њеног Британског Величанства у Србији, а лице, чије се тражи, остаће, ако је шено, и даље у при британска Влада не буде нова доказна средства се потврдила његова кривост, односно којима (ма какве друге тешко наступиле у дотичној

"Члан XII

"Издавање неће се осим у случају да се доказна средства довољно законима умољене да стављање кривца постоји дотични злочин био

committed in the territory of the said State, or to prove that the prisoner is the identical person convicted by the Courts of the State which makes the requisition, and that the crime of which he has been convicted is one in respect of which extradition could, at the time of such conviction, have been granted by the State applied to. In Her Britannic Majesty's dominions the fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison to await his surrender.

"Article XIII.

"If the individual claimed by one of the two High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers, on account of other crimes or offences committed upon their respective territories, his extradition shall be granted to that State whose demand is earliest in date.

"Article XIV.

"If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, or within such further time as the State applied to, or the proper Tribunal thereof shall direct, the fugitive shall be set at liberty.

"Article XV.

"All articles seized which were in the possession of the person to be surrendered, at the time of his apprehension, shall, if the competent authority of the State applied to for the extradition has ordered the delivery thereof, be given up when the extradition takes place, and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof of the crime.

територији речене Државе, или за утврђење да је ухапшени идентичан с лицем, које је осуђено судовима Државе, која тражи издавање, и да злочин, због којег је осуђен, спада у категорију оних, за које би, у време кад је ова осуда наречена, умољена Држава дозволила издавање. У територијама Њенога Британскога Величанства одбегли кривац издавање се тек по истеку 15 дана од дана кад је био притворен у цели издавања.

"Члан XIII.

"Ако једна или више других Влада захтевају лице, чије је издавање на основу овог уговора од једне од Високих Уговорних Страна тражено, због других злочина или казнимних дела учињених на њиховом земљишту, онда ће то лице бити надато оној Влади, чија је молба најранија.

"Члан XIV.

"Ако за два месеца, од дана кад је лице, чије се издавање тражи, притворено, или за дуже време, које би умољена Држава односно надлежни Суд одредио, нису поднесена довољна доказна средства, која би издавање могла оправдати, пребегло ће се лице пустити у слободу.

"Члан XV.

"Сви предмети узашени, који су били за време његовог ставања у притвор, у притежању лица, чије се издавање захтева, предаће се, ако је надлежна власт умољене Државе наредила њихову предају, другој Држави у време самог издавања, али ово се не тиче само украдених ствари, него и свију предмета, који би могли да служе као доказ о детичкој привиди.

"Article XVI.

"All expenses connected with extradition shall be borne by the demanding State.

"Article XVII.

"The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of Her Britannic Majesty, so far as the laws for the time being in force in such Colonies and foreign possessions respectively will allow.

"The requisition for the surrender of a fugitive criminal who has taken refuge in any such Colonies or foreign possessions may be made to the Governor or chief authority of such Colony or possession by any person authorized to act in such Colony or possession as a Consular officer of Servia.

"Such requisitions may be disposed of, subject always, as nearly as may be, and so far as the law of such Colony or foreign possession will allow, to the provisions of this Treaty, by the said Governor or chief authority, who, however, shall be at liberty either to grant the surrender or to refer the matter to his Government.

"Her Britannic Majesty, shall, however, be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of criminals from Servia who may take refuge within such Colonies and foreign possessions, on the basis, as nearly as may be, and so far as the law of such Colony or foreign possession will allow, of the provisions of the present Treaty.

"Requisitions for the surrender of a fugitive criminal emanating from any Colony or foreign possessions of Her Britannic Majesty shall be governed by the rules laid down in the preceding Articles of the present Treaty.

"Члан XVI.

"Све трошкове око издавања подносиће она Држава која тражи издавање.

"Члан XVII.

"Одредбе овог Уговора примењиваће се и на колоније и иностране посесије Њенога Британскога Величанства, у колико буду постојећи закони речених колонија и посесија ово дозвољавају.

"Молбу за издавање одбеглог кривца, који се склопио у једној таквој колонији или посесији, моћи ће упутити гувернеру или највишој власти такве колоније или посесије на какво лице овлашћено да у тој колонији или посесији, врши дужност консуларног чиновника Србије.

"Такве молбе може, што је могуће више, и у колико закони дотичне колоније или посесије то дозвољавају, према одредбама овог Уговора, извршити речени гувернер или највиша власт, који ће међутим имати право или да дозволе издавање или да предаду ствар својој Влади.

"Њено Британско Величанство, међутим, моћи ће наредити нарочите прописе у британским колонијама и посесијама за издавање кривца из Србије, који би пребегли у те колоније или посесије, и то што је могуће више, и у колико закони њихови то дозвољавају на основу одредаба овог Уговора.

"Молбе за издавање одбеглог кривца упућене од стране колонија или иностраних посесија Њенога Британскога Величанства спадају под одредбе горњих чланака овог Уговора.

"Article XVIII.

"The present Treaty shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties at any time on giving to the other six months' notice of its intention to do so.

"The Treaty shall be ratified, and the ratifications shall be exchanged at Belgrade as soon as possible.

"In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

"Done in duplicate at Belgrade, the
6 December
28 November 1900.

(L.s.)

(Signed) G. F. BONHAM.

(L.s.)

(Signed) ALEXA S. JOVANOVIĆ.

"Члан XVIII.

"Овај Уговор ступиће у силу десет дана после његовог објављивања, а у сагласију с формама одређеним законима Високих Уговорних Страна. Он ће бити поништан докле док једна од Уговорних Страна не буде дала другој на знање, шест месеци у напред, своју жељу да исти престане важити.

"Овај ће се Уговор ратификовати и ратификације ће се изменити чим буде могуће у Београду.

"У потврду чега додочин пуномоћници потписали су овај Уговор и ставили на њ своје печате.

"Састављено у два примерка у
Београду, ^{23. новембра}
6. децембра 1900.

(М. П.) Г. Ф. Бонхам с. р.

(М. П.) Алекса С. Јовановић с. р.

And whereas the ratifications of the said Treaty were exchanged at Belgrade on the 13th day of March, 1901 :

Now, therefore, His Majesty, by and with the advice of His Privy Council, and in virtue of the authority committed to Him by the said recited Acts, doth order, and it is hereby ordered, that from and after the thirteenth day of August, 1901, the said Acts shall apply in the case of Servia, and of the said Treaty with Servia :

Provided always that the operation of the said Acts shall be and remain suspended within the Dominion of Canada so long as an Act of the Parliament of Canada passed in 1886,* and entitled "An Act respecting the extradition of Fugitive Criminals," shall continue in force there, and no longer.

A. W. FitzRoy.

* "The Extradition Act" (Revised Statutes of Canada, c. 142).

(z) Spain.

At the Court at Windsor, the 27th day of November

PRESENT :

The Queen's Most Excellent Majesty in Council

Whereas * * * [*Here follows the first recital to the May 16, 1878, relating to France, printed at p. 86 above.*]

And whereas a Treaty was concluded on the Four June, 1878, between Her Majesty and the King of Spain Mutual Extradition of Fugitive Criminals, which Treaty the terms following :—

" Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Majesty the King of Spain, having judged it expedient, with a view to the better administration of justice and the prevention of crime, that persons charged with, or convicted of the crimes herein-after enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up, have resolved to conclude the present Treaty, and have appointed as their Plenipotentiaries, namely :—

" Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honourable Robert Arthur Talbot Gascoyne Cecil, Marquis and Earl of Salisbury, Viscount Cranborne, Dorset, and Baron Cecil of Essendine, a Peer of the United Kingdom, a Member of Her Majesty's Most Honourable Privy Council, Her Principal Secretary of State for Foreign Affairs;

" And His Majesty the King of Spain, Don Manuel Rancés y-Villanueva, Marquis of Casa-Laiglesia, a Senator of the Kingdom, Knight Grand Cross of the Royal and Distinguished Order of Charles III., and Knight of the First Class of the Civil Order of Beneficence of Spain; Knight Grand Cross of the Papal Order of Gregory the Great; Knight of the First Class of the Royal Order of the Red Eagle of Prussia; Knight Grand Cross of the Royal Orders of the Crown of Italy, of Frederick of Wurtemberg,

" Su Majestad la Reina Unido de la Gran Bretaña y Su Majestad el Rey de España, habiendo juzgado conveniente contribuir á la mejoracion de la justicia y á la prevencion del crimen, que las acusadas ó sentenciadas criminales ó delitos enumerados, y fugitivos de la justicia, sean reciprocamente entregados en determinadas instancias, han resuelto celebrar el presente Tratado y nombrar sus Plenipotenciarios, á saber :

" Su Majestad la Reina Unido de la Gran Bretaña al Muy Honorable Robert Talbot Gascoyne Cecil, Conde de Salisbury, Visconde de Cranborne, Dorset, y Barón de Essendine, Par del Reino, Miembro del Muy Honorable Consejo Privado de Su Magestad, Principal Secretario de Estado de los Negocios Extranjeros;

" Su Majestad el Rey de España á Don Manuel Rancés y Villanueva, Marqués de Casa Laiglesia, Senador del Reino, Caballero Gran Cruz de la Real y Distinguida Orden de Carlos III., y Caballero de la Clase de la Orden Civil de Beneficencia de España, Caballero de la Cruz de la Orden Pontificia de Gregorio el Magno, Caballero de la Primera Clase de la Real Orden de la Aguila Roja de Prusia, Caballero de las Reales Ordenes de Italia, de Federico de Wurtemberg, y de Alberto el V.

and of Albert the Valorous of Saxony; of the Grand Ducal Orders of Philip the Magnanimous of Hesse-Darmstadt, of the White Hawk of Saxe-Weimar, of the Crown of Vandalia of Mecklenburg-Schwerin, and of the Ducal Order of Adolphus of Nassau; Knight Grand Cross of the Lion and the Sun of Persia, &c., His Envoy Extraordinary and Minister Plenipotentiary to Her Majesty the Queen of the United Kingdom of Great Britain and Ireland;

"Who, after having communicated to each other their respective full powers, and found them in good and due form, have agreed upon the following Articles:—

" Article I.

"Her Majesty the Queen of the United Kingdom of Great Britain and Ireland engages to deliver up, under the circumstances and on the conditions stipulated in the present Treaty, all persons, and His Majesty the King of Spain engages to deliver up, under the like circumstances and conditions, all persons, excepting his own subjects, who, having been charged with, or convicted by the Tribunals of one of the two High Contracting Parties of the crimes or offences enumerated in Article II., committed in the territory of the one party, and who shall be found within the territory of the other.

" Article II.

"The extradition shall be reciprocally granted for the following crimes or offences:—

"1. Murder (including assassination, parricide, infanticide, poisoning, or attempt to murder).

"2. Manslaughter.

"3. Administering drugs or using instruments with intent to procure the miscarriage of women.

"4. Rape.

"5. *Aggravated or indecent assault. Carnal knowledge of a girl under the age of 10 years; carnal knowledge of a girl above the age of 10 years and under the age of 12 years; indecent assault upon any female, or any attempt to have carnal knowledge of a girl under 12 years of age.**

Sajonia, de las Gran Ducales de Felipe el Magnánimo de Hesse-Darmstadt, del Halcon Blanco de Sajonia Weimar, y de la Corona de Vandalia de Mecklenburgo Schwerin, y de la Ducal de Adolfo de Nassau, Gran Cruz del Leon y el Sol de Persia, &c., Su Enviado Extraordinario y Ministro Plenipotenciario cerca de Su Majestad la Reina del Reino Unido de la Gran Bretaña é Irlanda;

"Quienes, despues de haberse comunicado sus plenos poderes respectivos, y de hallarlos en buena y debida forma, han convenido en los Artículos siguientes:—

" Artículo I.

"Su Majestad la Reina del Reino Unido de la Gran Bretaña é Irlanda se obliga á entregar en las circunstancias y con las condiciones estipuladas en el presente Tratado, todas las personas, y Su Majestad el Rey de España se obliga á entregar en las mismas circunstancias y con las mismas condiciones todas las personas con excepcion de sus propios súbditos, que habiendo sido encausadas ó sentenciadas por los Tribunales de Una de las dos Altas Partes Contratantes por los crímenes ó delitos enumerados en el Artículo II, y cometidos en Su Territorio, sean halladas en el territorio de la Otra.

" Artículo II.

"Se concederá reciprocamente la extradicion por los siguientes crímenes ó delitos:—

"1. Asesinato, parricidio, infanticidio envenenamiento, ó tentativa de asesinato.

"2. Homicidio.

"3. Aborto.

"4. Violacion.

"5. *Atentado contra el pudor consumado ó intentado sobre persona de uno ú otro sexo, menor de 12 años.**

* This clause was cancelled by Article I. of the Declaration of February 19th, 1889, printed below, and a new clause substituted.

"6. Kidnapping and false imprisonment, child-stealing, abandoning, exposing, or unlawfully detaining children.

"7. Abduction of minors.

"8. Bigamy.

"9. Wounding or inflicting grievous bodily harm.

"10. Assaulting a Magistrate, or peace or public officer.

"11. Threats by letter or otherwise with intent to extort money or other things of value.

"12. Perjury or subornation of perjury.

"13. Arson.

"14. Burglary or house-breaking, robbery with violence, larceny or embezzlement.

"15. Fraud by a bailee, banker, agent, factor, trustee, director, member, or public officer of any company made criminal by any law for the time being in force.

"16. Obtaining money, valuable security, or goods by false pretences; receiving any money, valuable security, or other property, knowing the same to have been unlawfully obtained.

"17. (a) Counterfeiting or altering money, or bringing into circulation counterfeited or altered money.

"(b) Forgery, or counterfeiting or altering or uttering what is forged, counterfeited, or altered.

"(c) Knowingly making without lawful authority any instrument, tool, or engine adapted and intended for the counterfeiting of coin of the realm.

"18. Crimes against Bankruptcy Law.

"19. Any malicious act done with intent to endanger persons in a railway train.

"20. Malicious injury to property, if such offence be indictable.

"21. Crimes committed at sea.

"(a) Piracy by the law of nations.

"(b) Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

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"6. Secuestro, robo, abandono, exposicion, ó retencion ilegal de niños.

"7. Sustraccion de menores.

"8. Bigamia.

"9. Heridas ó lesiones corporales graves.

"10. Desacato ó violencia contra autoridades, magistrados, ó funcionarios públicos.

"11. Amenazas verbales ó escritas con intencion de robar dinero ó valores.

"12. Falso testimonio y soborno de testigos, peritos, ó intérpretes.

"13. Incendio voluntario.

"14. Hurto y robo.

"15. Abuso de confianza ó defraudacion por un banquero, comisionista, administrador, tutor, curador, liquidador, síndico, funcionario público, director, miembro ó empleado de una sociedad, ó por cualquiera otra persona.

"16. Estafa, ocultacion fraudulenta de dinero, valores ó objetos muebles, y adquisicion de los mismos con conocimiento de que han sido ilegalmente obtenidos.

"17. (a.) Fabricacion y expendicion de moneda falsa ó alterada.

"(b.) Falsificacion de documentos ó empleo de los mismos; falsificacion de los sellos del Estado, punzones, timbres ó papel sellado, ó empleo de sellos, punzones, ó timbres falsificados.

"(c.) Fabricacion ilegal de instrumentos para la falsificacion del ouño de la moneda.

"18. Quiebra fraudulenta.

"19. Actos cometidos con intencion de poner en peligro la vida de los viajeros en un tren de camino de hierro.

"20. Destrucion ó deterioro de cualquiera propiedad mueble ó inmueble penado por la ley.

"21. Crímenes que se cometan en la mar:

"(a.) Pirateria.

"(b.) Destrucion ó pérdida de un buque causada intencionalmente, ó tentativa y conspiracion para dicho objeto.

"(c) Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.

"(d) Assault on board a ship on the high seas with intent to destroy life, or to do grievous bodily harm.

"22. Dealing in slaves in such manner as to constitute an offence against the laws of both countries.

"The extradition is also to take place for participation in any of the aforesaid crimes as an accessory before or after the fact, provided such participation be punishable by the laws of both Contracting Parties.

" Article III.

"The present Treaty shall apply to crimes and offences committed prior to the signature of the Treaty; but a person surrendered shall not be tried for any crime or offence committed in the other country before the extradition, other than the crime for which his surrender has been granted.

" Article IV.

"No person shall be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove to the satisfaction of the competent authority of the State in which he is that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character.

" Article V.

"In the States of His Majesty the King of Spain, excepting the provinces or possessions beyond sea, the proceedings for demanding and obtaining the extradition shall be as follows:—

"The Diplomatic Representative of Great Britain shall send to the Minister for Foreign Affairs (Ministro de Estado) with the demand for extradition, an authenticated and legalized copy of the sentence or of the warrant of arrest against the person accused, clearly showing the crime or offence for which proceedings are taken against the

"(c.) Rebelion ó conspiracion por dos ó mas personas para rebelarse á bordo de un buque contra la autoridad del capitan á bordo de un buque en alta mar.

"(d.) Actos cometidos con intencion de matar ó de causar daño material á personas á bordo de un buque en alta mar.

"22. Trata de esclavos, con arreglo á las leyes de cada uno de ambos Estados respectivamente.

"La extradicion tendrá tambien lugar por complicidad en cualquiera de los crímenes y delitos enumerados en este Artículo, con tal de que sea punible por las leyes de Ambas Partes Contratantes.

" Artículo III.

"El presente Tratado será aplicable á los crímenes y delitos cometidos anteriormente á su celebracion; pero en ningun caso podrá la persona que haya sido entregada en virtud de sus estipulaciones ser encausada por ningun otro crimen ó delito cometido en el pais que la reclama, que aquel por el cual se concedió la extradicion.

" Artículo IV.

"No se hará la entrega de persona alguna si el delito por que se pide su extradicion es de carácter politica, ó si dicha persona prueba á satisfaccion de la Autoridad competente de Estado donde se halle que la demanda de entrega ha sido hecha en realidad con objeto de perseguirla ó castigarla por un delito de carácter político.

" Artículo V.

"En los Estados de Su Majestad el Rey de España, con excepcion de las Provincias ó Posesiones de Ultramar, el procedimiento para pedir y obtener la extradicion sera el siguiente:

"El Representante Diplomático de la Gran Bretaña dirigirá al Ministro de Estado, con la demanda de extradicion, una copia auténtica y legalizada de la sentencia ó del auto de prision contra la persona acusada, estableciendo claramente el crimen ó delito por el cual se procede contra el fugitivo. A este documento judicial se acompañarán,

fugitive. This judicial document shall be accompanied, if possible, by a description of the person claimed, and any other information or particulars that may serve to identify him.

"These documents shall be communicated by the Minister for Foreign Affairs to the Minister of Grace and Justice, by whose Department, after examining the documents and finding that there is reason for the extradition, a Royal Order will be issued granting it, and directing the arrest of the person claimed and his delivery to the British authorities.

"In virtue of the said Royal Order the Minister of the Interior (Ministro de la Gobernacion) will adopt the fitting measures for the arrest of the fugitive, and when this has taken place, the person claimed shall be placed at the disposal of the Diplomatic Representative who has demanded his extradition, and he shall be taken to the part of the frontier or to the seaport where the Agent appointed for the purpose by Her Britannic Majesty's Government is ready to take charge of him.

"In case the documents furnished by the said Government for the identification of the person claimed, or the information obtained by the Spanish authorities for the same purpose, should be considered insufficient, immediate notice thereof shall be given to the Diplomatic Representative of Great Britain, and the person under arrest shall be detained until the British Government shall have furnished fresh evidence to prove his identity or to clear up any other difficulty relative to the examination and decision of the affair.

"Article VI.

"In the dominions of Her Britannic Majesty, other than the Colonies or Foreign Possessions of Her Majesty, the manner of proceeding, in order to demand and obtain extradition, shall be as follows:—

"(A.) In the case of a person accused—The requisition for the surrender shall be made to Her Britannic Majesty's Principal Secretary of State for Foreign Affairs

si es posible, las señas de la persona reclamada y cualesquiera otras noticias ó datos que puedan ser útiles para identificarla.

"Estos documentos serán comunicados por el Ministro de Estado al de Gracia y Justicia, por cuyo Ministerio, despues de examinarlos y de reconocerse que hay lugar á la extradicion, se expedirá una Real Orden concediéndola y ordenando el arresto de la persona reclamada y su entrega á las Autoridades Británicas.

"En virtud de dicha Real Orden, el Ministro de la Gobernacion adoptará las medidas oportunas para el arresto del fugitivo, y, verificado que sea, será este puesto á disposicion del Representante Diplomático que pidió su extradicion y conducido hasta el punto de la frontera, ó hasta el puerto de mar, donde, para hacerse cargo de él, se halle el comisionado al efecto por el Gobierno de Su Majestad Británica.

"En el caso de que los documentos suministrados por este Gobierno para la identificacion de la persona reclamada, ó de que los datos obtenidos por las Autoridades Españolas con el mismo fin se considerasen insuficientes, dará inmediato aviso de ello al Representante Diplomático de la Gran Bretaña, quedando detenida la persona arrestada hasta que el Gobierno Británico haya suministrado nuevas pruebas para establecer la identidad de aquella ó para esclarecer cualquiera otra dificultad relativa al examen y resolucion del asunto.

"Artículo VI.

"En los Estados de Su Majestad Británica, con excepcion de las Colonias ó Posesiones extranjeras, el procedimiento para pedir y obtener la extradicion será el siguiente:—

"(a.) En el caso de una persona acusada, la demanda será dirigida al Principal Secretario de Estado de Su Majestad Británica para los Negocios Extranjeros por el

by the Diplomatic Representative of His Majesty the King of Spain. The said demand shall be accompanied by a warrant of arrest or other equivalent judicial document, issued by a Judge or Magistrate duly authorized to take cognizance of the acts charged against the accused in Spain, and duly authenticated depositions or statements taken on oath before such Judge or Magistrate, clearly setting forth the said acts, and containing a description of the person claimed, and any particulars which may serve to identify him.

"The said Principal Secretary of State shall transmit such documents to Her Britannic Majesty's Principal Secretary of State for the Home Department, who shall then, by order under his hand and seal, signify to some Police Magistrate in London that such requisition has been made, and require him, if there be due cause, to issue his warrant for the apprehension of the fugitive. On the receipt of such order from the Secretary of State, and on the production of such evidence as would, in the opinion of the Magistrate, justify the issue of the warrant if the crime had been committed in the United Kingdom, he shall issue his warrant accordingly.

"When the person claimed shall have been apprehended, he shall be brought before the Magistrate who issued the warrant, or some other Police Magistrate in London. If the evidence to be then produced shall be such as to justify, according to the law of England, the committal for trial of the prisoner, if the crime of which he is accused had been committed in the United Kingdom, the Police Magistrate shall commit him to prison to await the warrant of the Secretary of State for his surrender; sending immediately to the Secretary of State a certificate of the committal and a report upon the case.

"After the expiration of a period from the committal of the prisoner, which shall never be less than fifteen days, the Secretary of State shall, by order under his hand and seal, order the fugitive criminal to be surrendered to such person as may be duly authorized to receive

Representante Diplomático de España. A dicha demanda acompañará un auto de prision u otro documento judicial equivalente expedido por un Juez ó Magistrado competentemente autorizado para conocer en la causa formada al acusado en España, y las declaraciones hechas con arreglo á las leyes ante dicho Juez ó Magistrado, manifestando claramente el crimen ó delito de que se le acusa; y por último, si es posible, las señas de la persona reclamada, y cualesquiera otros datos que puedan ser útiles para establecer su identidad.

"Dicho Principal Secretario de Estado transmitirá los documentos anunciados al Principal Secretario de Estado de Su Majestad Británica para los Negocios Interiores (Home Department), quien, por una orden de su puño y provista de su sello, someterá la demanda de extradición á un Magistrado de Policía de Londres, requiriéndole que expida, si ha lugar, un mandato de prision contra la persona reclamada. Este Magistrado expedirá el mandato requerido si las pruebas presentadas fuesen en su opinion bastantes á justificar igual medida en el supuesto de haberse cometido el crimen ó delito en el Reino Unido.

"Verificada la apprehension de la persona reclamada, se la conducirá ante el Magistrado que diotó el auto de prision ó ante cualquier otro Magistrado de Policía de Londres. Si las pruebas presentadas justificasen con arreglo á la ley de Inglaterra la formacion de causa al detenido, en el caso de que el acto por el cual se le acusa hubiese sido cometido en el Reino Unido, el Magistrado de Policía ordenará su prision, hasta que el Secretario de Estado expida la orden para que la extradición se verifique, y dirigirá inmediatamente á este certificacion de que así lo ha hecho, juntamente con un informe sobre el asunto.

"A la terminacion de un plazo que no podrá exceder* de quince dias desde que se ordenó la prision y sujecion á juicio del preso, el Secretario de Estado mandará, por medio de una orden de su puño y provista de su sello, que sea aquel entregado al Comisionado autori-

* Spanish text amended by Article II. of the Declaration of February 19, 1889, printed at p. 250 below, by the substitution of the words "no menor" for those printed in italics.

him on the part of the Spanish Government.

"(B.) In the case of a person convicted—The course of proceeding shall be the same as above indicated, except that the warrant to be transmitted by the Diplomatic Representative of Spain in support of his requisition shall clearly set forth the crime or offence of which the person claimed has been convicted, and state the place and date of his conviction.

"The evidence to be produced before the Police Magistrate shall be such as would, according to the law of England, prove that the prisoner was convicted of the crime charged.

"(C.) Persons convicted by judgment in default or *arrêt de contumace*, shall be, in the matter of extradition, considered as persons accused, and, as such, be surrendered.

"(D.) After the Police Magistrate shall have committed the accused or convicted person to prison to await the order of a Secretary of State for his surrender, such person shall have the right to apply for a writ of *habeas corpus*; if he should so apply, his surrender must be deferred until after the decision of the Court upon the return to the writ and even then can only take place if the decision is adverse to the applicant. In the latter case the Court may at once order his delivery to the person authorized to receive him, without the order of a Secretary of State for his surrender, or commit him to prison to await such order.

" Article VII.

" Warrants, depositions, or statements on oath, issued or taken in the dominions of either of the two High Contracting Parties, and copies thereof, and certificates of or judicial documents stating the facts of conviction, shall be received in evidence in proceedings in the dominions of the other, if purporting to be signed or certified by a Judge, Magistrate, or officer of the country where they were issued or taken, provided such warrants, depositions, statements, copies, certificates, and judicial documents are authenticated by the

zado para recibirlo por el Gobierno Español.

"(b.) En el caso de una persona condenada, el procedimiento será el mismo que queda indicado, salvo que el auto ó mandato que haya de ser presentado por el Representante Diplomático de España en apoyo de la demanda de extradición expresará claramente el crimen ó delito por el que la persona reclamada haya sido condenada, mencionando al mismo tiempo el lugar y la fecha de la sentencia.

"La prueba que en ese caso deberá ser presentada al Magistrado de Policía ha de ser de naturaleza que establezca que según la Ley de Inglaterra el detenido ha sido condenado por la infracción de que se le acusó.

"(c.) Los sentenciados en rebeldía ó *in contumaciam* se considerarán para los efectos de la extradición como acusados, y serán entregados en este concepto.

"(d.) Después de verificada por mandato de Magistrado de Policía la prisión de la persona acusada ó condenada, hasta que el Secretario de Estado expida la orden de extradición, dicha persona tendrá el derecho de reclamar un mandato de *Habeas Corpus*. Si hiciere uso de este derecho, la extradición se diferirá hasta que el Tribunal falle sobre el incidente, y no podrá llevarse á cabo sino cuando el fallo sea adverso al reclamante.

"En este caso el Tribunal podrá mandar, sin la orden de un Secretario de Estado, la inmediata entrega del acusado al Comisionado autorizado para hacerse cargo de él, ó mantenerle en prisión hasta que dicha orden del Secretario de Estado sea expedida.

" Artículo VII.

" Los autos, mandatos, declaraciones juradas, expedidos ó tomadas en los Estados de una de las Altas Partes Contratantes, las copias de esos documentos, así como las certificaciones ó documentos judiciales en que se funde la condena, serán recibidos como pruebas en el procedimiento de los Estados de la otra, si están provistos de la firma ó de la certificación de un Juez, de un Magistrado ó de un funcionario del país en que hayan sido expedidos ó tomadas, y siempre que dichos autos, mandatos, declaraciones, copias, certificaciones y documentos

oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of State.

“Article VIII.

“A fugitive criminal may be apprehended under a warrant issued by any Police Magistrate, Justice of the Peace, or other competent authority in either country, on such information or complaint, and such evidence, or after such proceedings as would, in the opinion of the authority issuing the warrant, justify the issue of a warrant if the crime had been committed or the person convicted in that part of the dominions of the two Contracting Parties in which the Magistrate, Justice of the Peace, or other competent authority exercises jurisdiction: provided, however, that, in the United Kingdom, the accused shall, in such case, be sent as speedily as possible before a Police Magistrate in London. He shall in accordance with this Article be discharged, as well in Spain as in the United Kingdom, if within the term of thirty days a requisition for extradition shall not have been made by the Diplomatic Agent of his country in accordance with the stipulations of this Treaty.

“The same rule shall apply to the cases of persons accused or convicted of any of the crimes or offences specified in this Treaty, and committed on the high seas on board any vessel of either country which may come into a port of the other.

“Article IX.

“If the fugitive criminal who has been committed to prison be not surrendered and conveyed away within two months after such commitment, or within two months after the adverse decision of the Court upon the return to a writ of *habeas corpus* in the United Kingdom, he shall be discharged from custody, unless sufficient cause be shown to the contrary.

“Article X.

“In the Provinces beyond sea, Colonies, and other Possessions beyond sea of the two High Con-

judiciales sean certificados por el juramento de un testigo ó por el sello oficial del Ministro de Gracia y Justicia ó algun otro Ministro de la Corona.

“Artículo VIII.

“Todo criminal fugitivo podrá ser detenido por mandato de cualquier Magistrado de Policía, Juez de Paz, ó Municipal ú otra Autoridad competente en cada uno de los dos Estados, expedido en virtud de informe, demanda, prueba ó todo otro acto de procedimiento que en opinion de la Autoridad que expidiere el mandato fuese bastante á justificar este, si el crimen ó delito hubiese sido cometido ó la persona hubiese sido condenada en la parte de los Estados de ambos Contratantes en que el Magistrado, Juez de Paz ú otra Autoridad competente ejercen jurisdiccion; á condicion sin embargo en el Reino Unido de que se haga comparecer al acusado tan pronto como sea posible ante un Magistrado de Policía de Londres. Asi en España como en el Reino Unido, el detenido, con arreglo á este Artículo, será puesto en libertad si en un término de treinta dias no ha sido formulada demanda de extradicion por el Representante Diplomático de su país, con arreglo á las estipulaciones de este Tratado.

“La misma regla se applicará á los casos de personas acusadas ó condenadas por cualquiera de los crímenes ó delitos especificados en este Tratado, y cometidos en alta mar á bordo de un buque de uno de los dos países que llegase á un puerto del otro.

“Artículo IX.

“Si el criminal fugitivo constituido en prision no ha sido entregada cuando hayan trascurrido dos meses despues de haber sido expedida la órden de su prision, ó dos meses despues dell fallo del Tribunal negativo de su reclamacion de un mandato de *Habeas Corpus*, en el Reino Unido, será puesto aquel en libertad, á menos que haya causa suficiente por lo contrario.

“Artículo X.

“En las Provincias de Ultramar, Colonias y demás Posesiones de las dos Altas Partes Contratantes el

Extradition :—Spain.

tracting Parties, the manner of proceeding shall be as follows:—

“The requisition for extradition of the fugitive criminal who has taken refuge in an over-sea Province, Colony, or Possession of either of the two Contracting Parties, shall be made to the Governor or chief authority of such Province, Colony, or Possession by the chief Consular Officer of the other State in such Province, Colony, or Possession; or, if the fugitive has escaped from an over-sea Province, Colony, or Possession of the State on whose behalf the extradition is demanded, by the Governor or chief authority of such Province, Colony, or Possession.

“In these cases the provisions of this Treaty shall be observed as far as possible by the respective Governors or chief authorities, who, however, shall be at liberty either to grant the extradition or to refer the decision of the matter to the Governments of their respective countries.

“ Article XI.

“In cases where it may be necessary, the Spanish Government shall be represented at the English Courts by the Law Officers of the Crown, and the English Government in the Spanish Courts by the Public Prosecutor (*Ministerio Fiscal*).

“The respective Governments will give assistance to the Diplomatic Representatives who claim their intervention for the custody and security of the persons subject to extradition.

“ Article XII.

“The claim for extradition shall not be complied with if the individual claimed has been already tried for the same offence in the country whence the extradition is demanded, or if, since the commission of the acts charged, the accusation or the conviction, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of that country.

“ Article XIII.

“If the individual claimed by one of the two High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers, on

procedimiento será el si

“La demanda de extradición criminal fugitivo que refugiado en una Provincia, Colonia ó Posesión de las dos Partes Contratantes dirigirá al Gobernador ó Autoridad Superior de dicha Colonia ó Posesión por el Consular de mayor categoría en dicho Estado en dicha Colonia ó Posesión; ó si se ha fugado de una Ultramarina, Colonia ó Posesión en cuyo nombre se demanda la extradición, por el Gobierno ó Autoridad Superior de dicha Provincia, Colonia ó Posesión.

“En estos casos se observará en lo posible las disposiciones del presente Tratado por los respectivos Gobernadores ó Autoridades Superiores, pero se reservará la facultad de conceder o no la extradición ó de someter la resolución á los Gobiernos de dichos países.

“ Artículo XI.

“En los casos en que fuere necesario, el Gobierno Español será representado ante los Tribunales Británicos por los Oficiales de la Corona, y el Gobierno Británico ante los Tribunales por el Ministerio Fiscal.

“Los Gobiernos respectivos darán asistencia á los Representantes Diplomáticos que la reclamen para la custodia y seguridad de las personas sujetas á extradición.

“ Artículo XII.

“No se dará curso á la demanda de extradición cuando el individuo reclamado hubiese sido ya juzgado por el mismo crimen ó delito en el Estado al cual aquella se dirige; ni tampoco cuando, desde la comisión de los actos que constituyen el crimen ó delito de que se trata, la acusación ó la condena, la exención de la prosecución ó el castigo, hubiesen sido adquiridos por el transcurso del tiempo, segun las leyes de dicho Estado.

“ Artículo XIII.

“Cuando la persona reclamada por una de las Altas Partes Contratantes, en virtud del presente Tratado, fuese reclamada por uno ó varios otros

account of other crimes or offences committed upon their respective territories, his extradition shall be granted to that State whose demand is earliest in date; unless any other arrangement should exist between the different Governments to determine the preference, either on account of the gravity of the crime or offence, or for any other reason.

" Article XIV.

" If the individual claimed should be under prosecution, or have been condemned for a crime or offence committed in the country where he may have taken refuge, his surrender may be deferred until he shall have been set at liberty in due course of law.

" In case he should be proceeded against or detained in such country, on account of obligations contracted towards private individuals, the extradition shall nevertheless take place.

" Article XV.

" Every article found in the possession of the individual claimed at the time of his arrest, shall, if the competent authority so decide, be seized, in order to be delivered up with his person at the time when the extradition takes place. Such delivery shall not be limited to the property or articles obtained by stealing or by fraudulent bankruptcy, but shall extend to every thing that may serve as proof of the crime or offence, and shall take place even when the extradition, after having been granted, cannot be carried out by reason of the escape or death of the individual claimed.

" The rights of third parties with regard to the said property or articles are nevertheless reserved.

" Article XVI.

" The High Contracting Parties renounce any claim for the reimbursement of the expenses incurred by them in the arrest and maintenance of the person to be surrendered, and his conveyance as far as the frontier, they reciprocally agree to bear such expenses themselves.

causa de crímenes ó delitos cometidos en sus territorios respectivos, su extradición será concedida al Estado cuya demanda sea de fecha anterior; á menos que no exista entre los diferentes Gobiernos un arreglo para determinar la preferencia, ya por la gravedad del crimen ó delito, ya por cualquier otro motivo.

" Artículo XIV.

" Cuando la persona reclamada estuviere encausada, ó hubiese sido condenada por un crimen ó delito cometido en el Estado en que se hubiese refugiado, su extradición podrá diferirse hasta que haya sido puesta en libertad con arreglo á las leyes.

" En el caso de que dicha persona reclamada se hallase acusada ó detenida en el país en que se hubiese refugiado por obligaciones contraídas respecto de personas particulares, la extradición se llevará sin embargo ó cabo.

" Artículo XV.

" Si la autoridad competente lo dispusiese así, los objetos hallados en poder de la persona reclamada serán aprehendidos para ser entregados con ella cuando la extradición se verifique. Compréndense en esta disposición no solo los objetos robados ó procedentes de quiebra fraudulenta, sino también cualesquiera otros que pudiesen servir para la comprobación del crimen ó delito.

" Dichos objetos serán igualmente entregados después de ser acordado la extradición, si no se pudiera llevar esta á cabo por la fuga ó la muerte de la persona reclamada.

" Lo dispuesto en el presente Artículo se entiende sin perjuicio del derecho de terceros.

" Artículo XVI.

" Las altas Partes Contratantes renuncian al reembolso de los gastos ocasionados por ellas para la detención, manutención, y conducción hasta su frontera de las personas entregadas, conviniendo en sufragar cada una dichos gastos en sus territorios respectivos.

Extradition :—Spain.

“ Article XVII.

“ The present Treaty shall be ratified and the ratifications shall be exchanged at London as soon as possible.

“ It shall come into operation ten days after its publication, in conformity with the laws of the respective countries, and each of the Contracting Parties may at any time terminate the Treaty on giving to the other six months' notice of its intention to do so.

“ In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

“ Done at London, the fourth day of June, in the year of Our Lord one thousand eight hundred and seventy-eight.

“ (L.S.) *Salisbury.*

“ (L.S.) *Marques de Casa Laiglesia.*”

“ Articulo

“ El presente Tratado, y las ratificaciones, se intercambiarán en Londres como sea posible.

“ Empezará a producir efecto diez dias despues de su publicacion, en conformidad con las leyes de los Estados respectivos, y cada una de las Partes Contratantes podrá en cualquier tiempo terminar el Tratado dando a la otra seis meses de anticipacion para que se manifieste su intencion de hacerlo.

“ En fé de lo cual los Plenipotenciarios han firmado lo mismo, y han puesto en el el sello de sus armas.

“ Fecho en London, el quarto dia de Junio de mil ochocientos y ocho.

“ (L.S.) *Salisbury.*

“ (L.S.) *Marques de Casa Laiglesia.*”

And whereas the ratifications of the said Treaty were exchanged at London on the twenty-first instant :

Now, therefore, Her Majesty, by and with the Privy Council, and in virtue of the authority conferred by the said recited Acts, doth order, and it is hereby enacted, that from and after the ninth day of December, eight hundred and seventy-eight, the said Acts shall have full force and effect in relation to the case of the said Treaty with the King of Spain.

At the Court at Windsor,
The 28th day of May, 1889.

PRESENT :

The Queen's Most Excellent Majesty

Lord President.
Earl of Coventry.
Lord Ashbourne.

Whereas * * * [*Here follows the first recital relating to the Argentine Republic, printed at p. 1*]

And whereas a Treaty was concluded on the 4th 1878, between Her Majesty and the King of Spain for the mutual extradition of fugitive criminals :

And whereas by an Order of Her Majesty the Queen in Council, dated the 27th day of November, 1878,* it was directed that the Extradition Acts, 1870† and 1873,‡ should apply in the case of Spain :

And whereas * * * [*Here follows the second and third recitals to the Order relating to the Argentine Republic, printed at p. 2 above.*]

And whereas a Declaration was concluded on the 19th day of February, 1889, between the Government of Her Majesty and the Government of His Majesty the King of Spain, for amending paragraph 5, Article II., and paragraph 5, Article VI., of the above-mentioned Treaty of the 4th June, 1878, which Declaration is in the terms following:—

"The Government of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and the Government of His Majesty the King of Spain, being desirous to provide for the more effectual repression of crimes and offences in their respective territories, have authorized in due form the Under-signed to agree as follows :—

"El Gobierno de Su Majestad la Reina del Reino Unido de la Gran Bretaña é Irlanda, y Emperatriz de la India, y el Gobierno de Su Majestad el Rey de España, deseando hacer mas efectiva la repression de los delitos cometidos en sus respectivos territorios, han autorizado en debida forma á los Infrascritos para convenir en lo siguiente :—

" Article I.

"The English and Spanish texts of paragraph 5, Article II., of the Extradition Treaty of the 4th June, 1878, are cancelled, and the following text is substituted therefor—

" ' Unlawful carnal knowledge or any attempt to have unlawful carnal knowledge of a girl under sixteen years of age. Indecent assault.

" Artículo I.

" Los textos Español é Inglés del párrafo 5 del Artículo II del Convenio de Extradición de 4 de Junio, de 1878, quedan anulados y se sustituyen del modo siguiente :—

" ' Comercio carnal ilícito ó tentativa del mismo delito en la persona de una jóven menor de diez y seis años de edad. Atentado contra el pudor.' "

" Article II.

"The Spanish text of paragraph 5, Article VI. of the aforesaid Treaty is amended by the substitution of the words ' no menor ' for the words

" Artículo II.

" El texto Español del párrafo 5, Artículo VI., del antedicho Tratado queda enmendado, sustituyendose por las palabras ' no menor ' las

* Printed at p. 239 above. † 33 & 34 Vict. c. 52. ‡ 36 & 37 Vict. c. 60.

'que no podrá exceder,' so that the Spanish text shall run, 'A la terminacion de un plazo no menor de quince dias desde que se ordenó la prision y sujecion á juicio del preso,' &c.

palabras 'que no podrá exceder,' de modo que el texto Español será 'á la terminacion de un plazo no menor de quince dias desde que se ordenó la prision y sujecion á juicio del preso,' &c.

"Article III.

"The present Declaration shall come into force ten days after its publication in the manner prescribed by law in the respective countries.

"In witness whereof the Undersigned have signed the same, and have affixed thereto the seal of their arms.

"Done at Madrid, in duplicate, the 19th day of February, in the year of our Lord 1889.

"(L.S.) *Francois Clara Ford.*

"Artículo III.

"Esta Declaracion comenzará á regir diez dias despues de su publicacion en la forma prescrita en los respectivos países.

"En fé de lo cual los Infrascritos la firman y ponen el sello de sus armas.

"Hecho en Madrid, por duplicado, á diez y nueve de Febrero, de mil ochocientos ochenta y nueve.

"(L.S.) *El Marq de la Vega de Armijo.*"

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and in virtue of the authority committed to Her by the said recited Acts, doth order, and it is hereby ordered, that from and after the 10th day of June, 1889, the said Acts shall apply in the case of the said Declaration of the 19th day of February, 1889, with the Government of His Majesty the King of Spain, as fully to all intents and purposes as in the case of the said recited Treaty of the 4th day of June, 1878 :

Provided always, and it is hereby further ordered, that the operation of the said Acts shall be suspended within the Dominion of Canada so far as relates to the Kingdom of Spain and to the said Treaty and Declaration, and so long as the provisions of the Canadian Act aforesaid of 1886 * continue in force, and no longer.

C. L. Peel.

(aa) Sweden and Norway,

At the Court at Balmoral, the 30th day of September, 1873.

PRESENT :

The Queen's Most Excellent Majesty in Council.

Whereas * * * [Here follows the first recital to the Order of March 17, 1874, relating to Austria-Hungary, printed at p. 11 above,]

And whereas a Treaty was concluded on the twenty-sixth day of June last between Her Majesty and the King of Sweden

* "The Extradition Act" (Revised Statutes of Canada, c. 142).

and Norway for the mutual extradition of fugitive criminals, which Treaty is in the terms following :—

“ Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Majesty the King of Sweden and Norway, having judged it expedient, with a view to the better administration of justice, and to the more complete prevention of crime within the respective countries, that persons charged with or convicted of the crimes hereinafter enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up; their said Majesties have named as their Plenipotentiaries to conclude a Treaty for this purpose; that is to say :—

“ Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Honourable Edward Morris Erskine, a Companion of the Most Honourable Order of the Bath, Her Majesty's Envoy Extraordinary and Minister Plenipotentiary to His Majesty the King of Sweden and Norway;

“ And His Majesty the King of Sweden and Norway, Henrick Wilhelm Bredberg, Grand Cross of the Order of the Polar Star, His Majesty's Councillor of State and Acting Minister for Foreign Affairs;

“ Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles :—

“ Article I.

“ The High Contracting Parties engage to deliver up to each other those persons who, being accused or convicted of a crime committed in the territory of the one Party, shall be found within the territory of the other Party, under the circumstances and conditions stated in the present Treaty.

“ Article II.

“ The crimes for which the extradition is to be granted are the following :—

“ 1. Murder (child murder and poisoning included) or attempt to murder.

“ 2. Manslaughter:

“ 3. Counterfeiting or altering money, uttering or bringing into circulation knowingly counterfeit or altered money.

“ 4. Forgery or counterfeiting or altering or uttering what is forged, or counterfeited, or altered, comprehending the crimes designated in the Swedish and Norwegian penal codes as counterfeiting or falsification of paper money, bank notes or other securities, forgery or falsification of other public or private documents, likewise the uttering or bringing into circulation or wilfully using such counterfeited, forged, or falsified papers.

“ 5. Embezzlement or larceny.

“ 6. Obtaining money or goods by false pretences, except as regards Norway, cases in which the crime is not accompanied by aggravating circumstances according to the law of that country.

“ 7. Crimes by bankrupts against bankruptcy law.

“ 8. Fraud by a bailee, banker, agent, factor, trustee, or director, or member or public officer of any company, made criminal by any law for the time being in force.

“ 9. Rape.

“ 10. Abduction.

“ 11. Child stealing.

“ 12. Burglary or housebreaking.

“ 13. Arson.

“ 14. Robbery with violence.

“ 15. Threats by letter or otherwise with intent to extort, except as regards Norway, cases in which this crime is not punishable by the laws of that country.

“ 16. Sinking or destroying a vessel at sea, or attempting to do so.

" 17. Assaults on board a ship on the high seas, with intent to destroy life or to do grievous bodily harm.

" Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master; except, as regards Norway, conspiracy to revolt.

" The extradition is also to take place for participation in any of the aforesaid crimes, provided such participation be punishable by the laws of both the Contracting Parties.

" Article III.

" No Swedish or Norwegian subject shall be delivered up to the Government of the United Kingdom; and no subject of the United Kingdom shall be delivered up to the Swedish or Norwegian Government.

" Article IV.

" The extradition shall not take place if the person claimed has already been tried and discharged or punished, or is still under trial in the country where he has taken refuge, for the crime for which his extradition is demanded.

" If the person claimed should be under examination for any other crime in the country where he has taken refuge, his extradition shall be deferred until the conclusion of the trial, and the full execution of any punishment awarded to him.

" Article V.

" The extradition shall not take place if, subsequently to the commission of the crime, or the institution of the penal prosecution, or the conviction thereon, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the country where the criminal has taken refuge.

" Article VI.

" A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded, is one of a political character, or if he prove that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character.

" Article VII.

" A person surrendered by either of the High Contracting Parties to the other, cannot, until he has been restored or had an opportunity of had an opportunity of returning to the country from whence he was surrendered, be triable or tried for any crime committed in the other country other than that on account of which the extradition shall have taken place.

" This stipulation does not apply to crimes committed after the extradition.

" Article VIII.

" The requisitions for extradition shall be made through the Diplomatic Agents of the High Contracting Parties respectively.

" The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition, and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there.

" If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent Court of the State that makes the requisition for extradition.

" The requisition ought, as far as possible, to be accompanied by a description of the person accused or convicted in order to identify him.

" A requisition for extradition cannot be founded on sentences passed in *contumaciam*.

" Article IX.

" If the requisition for extradition be in accordance with the foregoing stipulations, the competent authorities of the State applied to shall proceed to the arrest of the fugitive.

" The prisoner is then to be brought before a competent Magistrate, who is to examine him and to conduct the preliminary investigation of the case, just as if the apprehension had taken place for a crime committed in the same country.

" The extradition shall not take place before the expiration of fifteen days from the apprehension, and then only if the evidence be found sufficient, according to the laws of the State applied to, either to justify the committal of the prisoner for trial, or to prove that the prisoner is the identical person convicted by the Courts of the State which makes the requisition.

" Article X.

" In the examinations which they have to make, in accordance with the foregoing stipulations, the authorities of the State applied to shall admit as entirely valid evidence the sworn depositions or statements of witnesses taken in the other State, or copies thereof, and likewise the warrants and sentences issued therein, provided such documents are signed or certified by a Judge, Magistrate, or Officer of such State, and are authenticated by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of State.

" Article XI.

" If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, he shall be set at liberty.

" Article XII.

" All articles seized, which were in the possession of the person to be surrendered at the time of his apprehension shall, if the competent authority of the State applied to for the extradition has ordered the delivery thereof, be given up when the extradition takes place; and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof of the crime.

" Article XIII.

" Each of the High Contracting Parties shall defray and bear expenses incurred by it in the arrest, maintenance, and conveyance of the individual to be surrendered till placed on board ship, as well as in keeping and conveying the articles which are to be delivered up in conformity with the stipulations of the preceding Article.

" The individual to be surrendered shall be conveyed to the port specified by the applying Government, at whose expense he shall be taken on board the ship to convey him away.

" If it be necessary to convey the individual claimed through the territories of another State, the expenses incurred thereby shall be defrayed by the applying State.

" Article XIV.

" The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of the two High Contracting Parties.

" The requisition for the surrender of a fugitive criminal who has taken refuge in a Colony or Foreign Possession of either Party, shall be made to the Governor or Chief Authority of such Colony or Possession by the Chief Consular Officer of the other in such Colony or Possession; or, if the fugitive has escaped from a Colony or Foreign Possession of the Party on whose behalf the requisition is made, by the Governor or Chief Authority of such Colony or Possession.

" Such requisitions may be disposed of, subject always, as nearly as may be, to the provisions of this Treaty, by the respective Governors or Chief

Authorities, who, however, shall be at liberty either to grant the surrender, or to refer the matter to their Government.

"Her Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and Foreign Possessions for the surrender of Swedish and Norwegian criminals who may there take refuge, on the basis, as nearly as may be, of the provisions of the present Treaty.

"Article XV.

"The present Treaty shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties, but shall remain in force for six months after notice has been given for its termination.

"Article XVI.

"The present Treaty shall be ratified, and the ratifications shall be exchanged at Stockholm, as soon as may be possible.

"In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto their seals.

"Done at Stockholm, the twenty-sixth day of June, in the year of our Lord one thousand eight hundred and seventy-three."

And whereas the ratifications of the said Treaty were exchanged at Stockholm on the twenty-eighth ultimo.

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and in virtue of the authority committed to Her by the said recited Act, doth order, and it is hereby ordered, that from and after the seventeenth day of October, one thousand eight hundred and seventy-three, the said Act shall apply in the case of the said Treaty with the King of Sweden and Norway.

Edmund Harrison.

(bb) **Switzerland.**

At the Court at Windsor, the 18th day of May, 1881.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.

Lord Steward.

Earl of Northbrook.

Whereas * * * [*Here follows the first recital to the Order relating to Luxemburg, printed at p. 141 above.*]

And whereas a Treaty was concluded on the twenty-sixth day of November, one thousand eight hundred and eighty, between Her Majesty and the Swiss Federal Council, for the

Mutual Extradition of Fugitive Criminals, which Treaty is in the terms following:—

“Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the Swiss Federal Council having judged it expedient, with a view to the better administration of justice, and to the prevention of crime within their respective territories and jurisdictions, that persons charged with, or convicted of, the crimes hereinafter enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up, have named as their Plenipotentiaries to conclude a Treaty for this purpose, that is to say:

“Her Majesty the Queen of the United Kingdom of Great Britain and Ireland the Honourable Hussey Crespigny Vivian, a Companion of Her Most Honourable Order of the Bath, Her Majesty's Minister Resident to the Swiss Confederation;

“And the Swiss Federal Council, its Vice-President, F. Anderwert, Federal Councillor and Chief of the Federal Department of Justice and Police:

“Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles:—

“Article I.

“Her Majesty the Queen of the United Kingdom of Great Britain and Ireland engages to deliver up, under the circumstances and on the conditions stipulated in the present Treaty, all persons, and the Swiss Federal Council engages to deliver up, under the like circumstances and conditions, all persons, excepting Swiss citizens, who, having been charged with, or convicted by the Tribunals of one of the two High Contracting Parties of the crimes or offences enumerated in Article II., committed in the territory of the one party, shall be found within the territory of the other.

“Nachdem Ihre Majestät die Königin des Vereinigten Königreichs von Grossbritannien und Irland, und der Schweizerische Bundesrath behufs besserer Verwaltung der Rechtspflege und zur Verhütung von Verbrechen innerhalb der beiden Gebiete und Gerichtsbarkeiten es für zweckmässig befunden haben, dass Personen, welche der in diesem Vertrage aufgeführten strafbaren Handlungen beschuldigt oder wegen solcher verurtheilt und vor der Justiz flüchtig geworden sind, unter bestimmten Umständen gegenseitig ausgeliefert werden sollen; so haben sie behufs Abschlusses eines diesfallsigen Vertrages zu Ihren Bevollmächtigten ernannt und zwar:

“Ihre Majestät die Königin des Vereinigten Königreichs von Grossbritannien und Irland den ehrenwerthen Hussey Crespigny Vivian, Mitglied Ihres höchst ehrenwerthen Bathördens, Ihrer Majestät Minister-Residenten bei der Schweizerischen Eidgenossenschaft;

“Und der Bundesrath der Schweizerischen Eidgenossenschaft, seinen Vicepräsidenten, Herrn Bundesrath F. Anderwert, Vorsteher des eidgenössischen Justiz- und Polizeidepartements;

“Welche, nachdem sie gegenseitig ihre Vollmachten mitgetheilt und dieselben in guter und gehöriger Form befunden, die folgenden Artikel vereinbart und abgeschlossen haben:—

“Artikel I.

“Ihre Majestät die Königin des Vereinigten Königreichs von Grossbritannien und Irland verpflichtet sich, unter den Voraussetzungen und Bedingungen des gegenwärtigen Vertrages, alle Personen, und der Schweizerische Bundesrath verpflichtet sich, unter den gleichen Voraussetzungen und Bedingungen, alle Personen, mit Ausnahme der schweizerischen Angehörigen, auszuliefern, welche wegen eines der in Artikel II. aufgezählten, auf dem Gebiete des andern vertragenden Theiles verübten Verbrechen oder Vergehen angeklagt, oder wegen eines solchen durch die Gerichte des einen der beiden kontrahirenden

"In the event of the Federal Council being unable, by reason of his Swiss nationality, to grant the extradition of an individual, who, after having committed in the United Kingdom one of the crimes or offences enumerated in Article II., should have taken refuge in Switzerland, the Federal Council engages to give legal effect to and prosecute the charge against him according to the laws of the Canton of his origin; and the Government of the United Kingdom engages to communicate to the Federal Council all documents, depositions, and proofs relating to the case, and to cause the commissions of examination directed by the Swiss Judge, and transmitted through the proper Diplomatic channel, to be executed gratuitously.

" Article II.

"The crimes for which the extradition is to be granted are the following:—

"1. Murder (including infanticide) and attempt to murder.

"2. Manslaughter.

"3. Counterfeiting or altering money, uttering or bringing into circulation counterfeit or altered money.

"4. Forgery, or counterfeiting, or altering, or uttering what is forged, or counterfeited, or altered; comprehending the crimes designated in the Penal Codes of both States as counterfeiting or falsification of paper money, bank notes, or other securities, forgery, or falsification of other public or private documents, likewise the uttering or bringing into circulation, or wilfully using such counterfeited, forged, or falsified papers.

"5. Embezzlement or larceny.

"6. Obtaining money or goods by false pretences.

"7. Crimes against bankruptcy law.

Staten verurtheilt worden sind und auf dem Gebiete des andern States gefunden werden.

"Im Falle der schweizerische Bundesrath die Auslieferung eines Individuums, welches in dem Vereinigten Königreiche eines der in Artikel II aufgezählten Verbrechen oder Vergehensschuldiggemacht, aber in die Schweiz sich geflüchtet hätte, wegen seiner Eigenschaft als Schweizer nicht bewilligen könnte, verpflichtet sich der schweizerische Bundesrath, die strafrechtliche Erledigung der Anklage nach Massgabe der Gesetzgebung des Heimatkantons des Angeklagten zu übernehmen, und die Regierung des Vereinigten Königreiches verpflichtet sich, sämtliche bezügliche Akten, Depositionen und Beweismittel dem schweizerischen Bundesrathe mitzutheilen, sowie im diplomatischen Wege zu vermittelnde Requisitionen des schweizerischen Richters unentgeltlich vollziehen zu lassen.

" Artikel II.

"Die strafbaren Handlungen, wegen deren die Auslieferung zu gewähren ist, sind folgende:—

"Mord, mit Inbegriff des Kindsmordes, und Mordsversuch.

"2. Todtschlag.

"3. Nachmachen oder Verfälschen von Metallgeld, Ausgeben oder Inverkehrsetzen nachgemachten oder verfälschten Metallgeldes.

"4. Fälschung, Nachmachen oder Verändern, sowie die Verausgabe dessen, was nachgemacht, gefälscht oder verändert ist, nämlich die Verbrechen welche in den Strafgesetzen der beiden Staaten als Nachmachen oder Verfälschen von Papiergeld, Banknoten oder andern Werthschriften enthalten sind; ferner die Fälschung oder Verfälschung anderer öffentlicher oder Privaturkunden, sowie das Ausgeben, oder Inverkehrsetzen und der wissentliche Gebrauch solcher nachgemachter, gefälschter oder verfälschter Papiere.

"5. Unterschlagung oder Diebstahl.

"6. Betrug, resp. Erlangung von Geld oder andern Sachen durch falsche Vorspiegelungen.

"7. Betrügerlicher Bankerott, resp. Verbrechen gegen das Gesetz betreffend Bankerott.

"8. Fraud committed by a bailee, banker, agent, factor, trustee, or director, or member or public officer of any Company made criminal by any law for the time being in force.

"9. Rape.

"10. Abduction of Minors.

"11. Child stealing or kidnapping.

"12. Burglary, or house-breaking, with criminal intent.

"13. Arson.

"14. Robbery with violence.

"15. Threats by letter or otherwise with intent to extort.

"16. Perjury or subornation of perjury.

"17. Malicious injury to property, if the offence be indictable.

"The extradition is also to take place for participation in any of the aforesaid crimes, as an accessory before or after the fact, provided such participation be punishable by the laws of both Contracting Parties.

"Article III.

"A fugitive criminal may be apprehended in either country under a warrant issued by any Police Magistrate, Justice of the Peace, or other competent authority, on such information or complaint, and such evidence, or after such proceedings as would, in the opinion of the authority issuing the warrant, justify the issue of a warrant if the crime had been committed or the person convicted in that part of the dominions of the two Contracting Parties in which the Magistrate, Justice of the Peace, or other competent authority exercises jurisdiction; provided, however, that, in the United Kingdom, the accused shall, in such case, be sent as speedily as possible before a Police Magistrate in London.

"8. Untreue von Seite eines Verwalters und Beauftragten, Bankiers, Agenten, Commissionärs, Verwalters von Vermögen Dritter, Vorstandes, Mitgliedes oder Beamten irgend einer Gesellschaft, soweit dieselbe nach den dannzumal bestehenden Gesetzen als Verbrechen behandelt wird.

"9. Nothsucht.

"10. Entführung von Minderjährigen.

"11. Menschenraub.

"12. Einbrechen oder Eindringen in ein Wohnhaus in verbrecherischer Absicht zur Tages- oder Nachtzeit.

"13. Brandstiftung.

"14. Raub mit Gewaltthätigkeit.

"15. Drohungen mittels Brief oder auf andere Weise, mit der Absicht, zu erpressen.

"16. Meineid und Anstiftung zum Meineid.

"17. Böswillige Eigenthumsbeschädigung, insofern sie von Amtes wegen als Verbrechen verfolgt wird.

"Die Auslieferung findet auch statt wegen Theilnahme an einer der vorbezeichneten strafbaren Handlungen, mag sie vor oder nach deren Verübung stattfinden, vorausgesetzt dass diese Theilnahme nach der Gesetzgebung beider Contractanten strafbar ist.

"Artikel III.

"Ein flüchtiger Verbrecher kann in jedem der beiden Länder verhaftet werden auf Grund eines Verhaftbefehles, der von einem Polizeimagistraten, Friedensrichter, oder von einer andern kompetenten Behörde erlassen wird, auf eine solche Strafanzeige oder Klage und auf einen solchen Beweis oder nach einem solchen Verfahren, dass nach der Ansicht der Behörde, welche den Verhaftbefehl erlässt, dessen Erlass gerechtfertigt wäre, wenn das Verbrechen in demjenigen Theile der Gebiete der Vertragsparteien begangen, oder die betreffende Person in demjenigen Theile der Gebiete der Vertragsparteien verurtheilt worden wäre, in welchem der Magistrat, Friedensrichter oder die andere kompetente Behörde Gerichtsbarkeit ausübt. In einem solchen Falle soll jedoch in dem Vereinigten

“Requisitions for provisional arrest may be addressed by post or by telegraph, provided they purport to be sent by some judicial or other competent authority. Such requisition must contain a description in general terms of the crime or offence, and a statement that a warrant has been granted for the arrest of the criminal, and that his extradition will be demanded.

“He shall in accordance with this Article be discharged, as well in the United Kingdom as in Switzerland, if within the term of thirty days a requisition for extradition shall not have been made by the Diplomatic Agent of the country claiming his surrender in accordance with the stipulations of this Treaty.

“Article IV.

“The requisition for extradition must always be made by the way of diplomacy, and to wit, in Switzerland by the British Minister to the President of the confederation, and in the United Kingdom to the Secretary of State for Foreign Affairs by the Swiss Consul-General in London, who, for the purposes of this Treaty, is hereby recognised by Her Majesty as a Diplomatic Representative of Switzerland.

“Article V.

“In the dominions of Her Britannic Majesty, other than the Colonies or foreign possessions of Her Majesty, the manner of proceeding shall be as follows :—

“(a.) In the case of a person accused—

“The requisition for the surrender shall be made to Her Britannic Majesty's Principal Secretary of State for Foreign Affairs by the Diplomatic Representative of the Swiss Confederation. The said demand shall be accompanied by a warrant of arrest, or other equivalent judicial document, issued by a Judge or Magistrate duly

Königreiche der Bkl wie möglich vor ein gistraten in Lond werden.

“Diese Ansuchen rische Verhaftung m elst der Post oder du graphen gemacht we gesetzt, sie enthalten dass sie von einer oder andern kompeten abgesendet worden s Requisitionen müsse gemeine Bezeichnung chens oder Vergehen Erklärung enthalten, t haftbefehl gegen den bestehe und dass dess rung verlangt werde.

“Er soll in Über mit diesem Artikel so Schweiz als auch in igten Königreiche de entlassen werden, wen nen dreissig Tagen von matischen Agenten Landes, welches dess ferung verlangt, das A begehren gemäss den dieses Vertrages gestell

“Artikel IV.

“Das Auslieferung muss immer auf diplo Wege gestellt werden u der Schweiz durch den Gesanten an den Bundes und in Grossbritannien Schweizerischen Gene in London, welcher Majestät für die Zweke trages als diplomatisel sentant der Schweiz, wird, an den Statssekre Auswärtigen Angelegen.

“Artikel V.

“In dem Reiche Ih nischen Majestät, mit der Kolonien und Ausw sizungen, soll verfahren folgt.

“(a.) Wenn es sich u geklagte Person handelt Auslieferungsbegehren diplomatischen Vertr Schweizerischen Ei schaft dem Hauptstatsse Auswärtigen Angel Ihrer Majestät Regiert reicht. Dieses Begehre: einem Verhaftsbefehl c andern gerichtlichen von gleichen Werthe,

authorized to take cognizance of the acts charged against the accused in Switzerland, and duly authenticated depositions or statements taken on oath, or solemnly declared to be true, before such Judge or Magistrate, clearly setting forth the said acts, and containing a description of the person claimed, and any particulars which may serve to identify him.

"The said Principal Secretary of State shall transmit such documents to Her Britannic Majesty's Principal Secretary of State for the Home Department, who shall then, by order under his hand and seal, signify to some Police Magistrate in London that such requisition has been made, and require him, if there be due cause, to issue his warrant for the apprehension of the fugitive. On the receipt of such order from the Secretary of State, and on the production of such evidence as would, in the opinion of the Magistrate, justify the issue of the warrant if the crime had been committed in the United Kingdom, he shall issue his warrant accordingly.

"When the person claimed shall have been apprehended he shall be brought before the Magistrate who issued the warrant or some other Police Magistrate in London. If the evidence to be then produced shall be such as to justify, according to the law of England, the committal for trial of the prisoner, if the crime of which he is accused had been committed in the United Kingdom, the Police Magistrate shall commit him to prison to await the warrant of the Secretary of State for his surrender; sending immediately to the Secretary of State a certificate of the committal and a report upon the case.

"After the expiration of a period from the committal of the prisoner, which shall never be less than

von einem zur Untersuchung der dem Angeklagten in der Schweiz zur Last gelegten Handlungen kompetenten Richter oder andern Beamten begleitet sein, sowie von den gehörig legalisirten vor diesem Richter oder Beamten beschworenen oder feierlich als Wahrheit erklärten Depositionen oder Aussagen, aus welchen die in Frage stehenden Handlungen klar hervorgehen, und welche überdies das Signalement der reklamirten Person und genügende Details enthalten zur Feststellung ihrer Identität.

"Der genannte Hauptstatsekretär soll diese Aktenstücke dem Hauptstatsekretär Ihrer Majestät für das Departement des Innern mittheilen, welcher mittels eigenhändig unterzeichneter und mit seinem Siegel versehenen Ordre einem Polizeimagistrate in London von dem gestellten Auslieferungsbegehren mittheilung macht und ihn beauftragt, wenn genügender Grund dazu vorliegt, den Verhaftsbefehl gegen den Flüchtigen zu erlassen. Nach dem Empfange dieser Ordre des Statsekretärs und auf die Vorlage solchen Beweises, welcher nach der Ansicht des Magistraten den Erlass des Verhaftsbefehles rechtfertigen würde, wenn das Verbrechen in dem Vereinigten Königreiche verübt worden wäre, soll er den Verhaftsbefehl erlassen.

"Wenn die reklamirte Person verhaftet worden ist, so soll sie vor den Magistraten, welcher den Verhaftsbefehl erlassen hat, oder vor einen andern Polizeimagistraten in London gebracht werden. Wenn der hierauf zu produzierende Beweis ein solcher ist, das er gemäas dem englischen Geseze hinreichen würde, um den Verhafteten zur Aburtheilung vor das Gericht zu verweisen, falls das Verbrechen, dessen er angeklagt ist, im Vereinigten Königreiche verübt worden wäre, so soll der Polizeimagistrat dessen Verzeugung in das Gefängniß verfügen, um die Ordre des Statsekretärs zum Vollzuge der Auslieferung abzuwarten, und dem Statsekretär sofort ein Attestat über diese Verfügung mit Bericht über den Fall mittheilen.

"Nachdem seit der Verfügung über die Verzeugung des Verhafteten in das Gefängniß eine Zeitfrist

fifteen days, the Secretary of State shall, by order under his hand and seal, order the fugitive criminal to be sent to such seaport town as shall, in each special case, be selected for his delivery to the Swiss Government.

“(b.) In the case of a person convicted—

“The course of proceeding shall be the same as in the case of a person accused, except that the warrant to be transmitted by the Diplomatic Representative of Switzerland in support of his requisition shall clearly set forth the crime or offence of which the person claimed has been convicted, and state the place and date of his conviction.

“The evidence to be produced shall consist of the penal sentence passed against the convicted person by the competent Court of the State claiming his extradition.

“(c.) Persons convicted by judgment in default or *arrêt de contumace* shall be, in the matter of extradition, considered as persons accused, and may, as such, be surrendered.

“(d.) After the Police Magistrate shall have committed the accused or convicted person to prison to await the order of a Secretary of State for his surrender, such person shall have the right to apply for a writ of *habeas corpus*; if he should so apply, his surrender must be deferred until after the decision of the Court upon the return to the writ, and even then can only take place if the decision is adverse to the applicant. In the latter case, the Court may at once order his delivery to the person authorised to receive him, without waiting for the order of a Secretary of State for his surrender, or commit him to prison to await such order.

verflossen ist, welche nie weniger als fünfzehn Tage betragen darf, soll der Statsekretär durch eine von ihm eigenhändig unterzeichnete und mit seinem Siegel versehene Ordre den Transport des auszuliefernden Individuums in denjenigen Moerhafen anordnen, welcher zu dessen Auslieferung an die schweizerische Regierung im einzelnen Falle bezeichnet werden wird.

“(b.) Wenn es sich um eine verurtheilte Person handelt, so soll gleich verfahren werden, wie wenn es sich um eine angeklagte Person handeln würde, ausgenommen, dass in dem Verhaftsbefehle, welcher von dem diplomatischen Vertreter der Schweiz zur Unterstützung des Auslieferungsbegehrens einzureichen ist, das Verbrechen oder Vergehen, wegen dessen das reklamierte Individuum verurtheilt wurde, klar dargestellt, und auch der Ort und das Datum des Urtheiles angegeben werden müssen.

“Als Beweis muss das Strafurtheil beigebracht werden, welches von dem zuständigen Gerichte das die Auslieferung begehrenden States gegen den Verurtheilten erlassen worden ist.

“(c.) Personen, welche in *contumaciam* verurtheilt worden sind, werden in Auslieferungsangelegenheiten wie Angeklagte behandelt und als solche ausgeliefert.

“(d.) Nachdem der Polizeimagistrat die Versezung des Angeklagten oder Verurtheilten in das Gefängnis verfügt hat, um die Ordre des Statsekretärs zur Vollziehung seiner Auslieferung abzuwarten, hat diese Person das Recht, um eine Verfügung auf *habeas corpus* einzukommen. Wenn sie hievon gebrauch macht, so soll die Auslieferung verschoben werden bis nach dem Entscheide des Gerichtshofes über ihr Gesuch, und kann nur stattfinden, wenn der Entscheid für den Petenten ungünstig lautet. Im letztern Falle kann das Gericht gleichzeitig die Vollziehung der Auslieferung verfügen, ohne die Ordre des Statsekretärs abzuwarten oder es kann die Beibehaltung des Verhaften verfügen bis nach Erlass jener Ordre.

"Article VI.

"In Switzerland the manner of proceeding shall be as follows:—

"The requisition for the extradition of an accused person must be accompanied by an authentic copy of the warrant of arrest, issued by a competent official or Magistrate, clearly setting forth the crime or offence of which he is accused, together with a properly legalized information setting forth the facts and evidence upon which the warrant was granted.

"If the requisition relates to a person already convicted, it must be accompanied by an authentic copy of the sentence or conviction, setting forth the crime or offence of which he has been convicted.

"The requisition must also be accompanied by a description of the person claimed, and, if it be possible, by other information and particulars which may serve to identify him.

"After having examined the documents, the Swiss Federal Council shall communicate them to the Cantonal Government in whose territory the person charged is found, in order that he may be examined by a judicial or police officer on the subject of their contents.

"The Cantonal Government will transmit the *procès-verbal* of the examination, together with all the documents, accompanied, if there be one, by a more detailed report to the Federal Council, who, after having examined them, and there being no opposition on either side, will grant the extradition, and will communicate its decision both to the British Legation and to the Cantonal Government in question, to the latter in order that it may send the person to be surrendered to such place on the frontier, and deliver him to such foreign police authority as the British Legation may name in each special case.

"Should the documents furnished with a view of proving the facts, or of establishing the identity of the accused, or the particulars collected

"Artikel VI.

"In der Schweiz soll folgendes Verfahren stattfinden:—

"Im Falle das Auslieferungsbegehren gegen eine angeklagte Person gerichtet ist, so muss eine authentische Kopie des von einem kompetenten Beamten oder Magistraten erlassenen Verhaftsbefehles der das Verbrechen oder Vergehen, dessen sie angeklagt ist, klar bezeichnet, vorgelegt werden und von einer gehörig legalisirten Darstellung der Thatfachen und der Beweise, gestützt auf welche der Verhaftsbefehl bewilligt worden ist, begleitet sein.

"Wenn das Auslieferungsbegehren eine verurtheilte Person betrifft, so muss es von einer authentischen Kopie des Urtheiles begleitet sein, worin das Verbrechen oder Vergehen, wegen dessen sie verurtheilt wurde, angegeben ist.

"Mit dem Auslieferungsbegehren müssen ferner das Signalement der reklamirten Person, und, wenn möglich, noch andere Informationen und Details, welche zur Feststellung ihrer Identität dienen mögen, vorgelegt werden.

"Nach geschehener Prüfung dieser Schriftstücke wird sie der Bundesrath derjenigen Kantonsregierung übersenden, auf deren Gebiet der Verfolgte sich befindet, damit der Letztere durch einen gerichtlichen oder polizeilichen Beamten über ihren Inhalt einvernommen werde.

"Die Kantonsregierung wird das Einvernehmensprotokoll nebst sämtlichen Akten und allfälligen weiteren Berichten dem Bundesrath übersenden, welcher nach erfolgter Prüfung derselben, im Falle von Keiner Seite Einsprache erhoben ist, die Auslieferung bewilligen und seinen Entscheid sowohl der Gesandtschaft von Grossbritannien, als auch der betreffenden Kantonsregierung mittheilen wird, letzterer behufs Uebergabe des auszuliefernden Individuums an diejenige Grenzstelle und an diejenige auswärtige Polizeibehörde, welche im einzelnen Falle von der Grossbritannischen Gesandtschaft zu bezeichnen ist.

"Wenn die zur Feststellung des Thatbestandes oder der Identität des Angeklagten vorgelegten Aktenstücke oder die von den schwei-

Extradition :—Switzerland.

by the Swiss authorities appear insufficient, notice shall be immediately given to the Diplomatic Representative of Great Britain, in order that he may furnish further evidence. If such further evidence be not furnished within fifteen days the person arrested shall be set at liberty.

“In the event of the application of this Treaty being contested, the Swiss Federal Council will transmit the documents ('dossier') to the Swiss Federal Tribunal, whose duty it is to decide definitely the question whether extradition should be granted or refused.

“The Federal Council will communicate the judgment of the Federal Tribunal to the British Legation. If this judgment grants the extradition the Federal Council will order its execution, as in the case when the Federal Council itself grants the extradition. If, on the other hand, the Federal Tribunal refuses the extradition, the Federal Council will immediately order the person accused to be set at liberty.

“Article VII.

“In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the State applied to shall admit as entirely valid evidence the depositions or statements of witnesses, either sworn or solemnly declared to be true, taken in the other State, or copies thereof, and likewise the warrants and sentences issued therein, or copies thereof, provided such documents purport to be signed or certified by a Judge, Magistrate, or officer of such State, and are authenticated by the official seal of a British Secretary of State, or of the Chancellor of the Swiss Confederation, being affixed thereto.

“The personal attendance of witnesses can be required only to establish the identity of the person who is being proceeded against with that of the person arrested.

serischen Behörden Zwecke gemachten E genügend erschein wird dem diplomatis Grossbritanniens ur von Mittheilung g weiterer Nachweise nicht vor Ablauf beigebracht, so wird in Freiheit gesetzt.

“Im Falle gegen e keit dieses Vertra sprache vorliegt, wi rath sämtliche schweizerischen l übersenden, welch Bewilligung oder der Auslieferung entscheiden hat.

“Der Bundesrath scheid des Bundes Grossbritannischen mittheilen. Lautet Bewilligung der A wird der Bundesrat hnung anordnen wie wo er von sich aus d bewilligt hat. Ist Bundes-gerichte d abgelehnt worden, Bundesrath sofort d des Verhafteten verf

“Artikel

“Die Behörden States haben bei welche ihnen nach d Bestimmungen oblie worenen oder feierlich erklärten Deposition genaussagen, welche State zu Protokoll g desgleichen den Abs und ebenso den im erlassenen Haftbefel theilen oder Absch volle Beweiskraft b rausgesetzt, dass in d stücken angegeben ist, einen Richter, eine Person oder einen an dieses States unter bescheinigt seien, und Beidrükung des Amt Britischen Statsmin schweizerischen B beglaubigt sind.

“Das persönliche I Zeugen darf nur ve zur Feststellung der Person des Verfolgte gen des Verhafteten.

" Article VIII.

" If proof sufficient to warrant the extradition be not furnished within two months from the day of the apprehension, the person arrested shall be discharged from custody.

" Article IX.

" In cases where it may be necessary, the Swiss Government shall be represented at the English Courts by the Law Officers of the Crown, and the English Government in the Swiss Courts by the competent Swiss authorities.

" The respective Governments will give the necessary assistance within their territories to the Representatives of the other State who claim their intervention for the custody and security of the persons subject to extradition.

" No claim for the repayment of expenses for the assistance mentioned in this Article shall be made by either of the Contracting Parties.

" Article X.

" The present Treaty shall apply to crimes and offences committed prior to the signature of the Treaty; but a person surrendered shall not be tried for any crime or offence committed in the other country before the extradition other than the crime for which his surrender has been granted.

" Article XI.

" A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove that the requisition for his surrender has, in fact, been made with a view to try and punish him for an offence of a political character.

" Article XII.

" The extradition shall not take place if, subsequently to the commission of the crime, or the institution of

" Artikel VIII.

" Wenn der zur Bewilligung der Auslieferung genügende Beweis nicht binnen zwei Monaten von dem Tage der Ergreifung des Flüchtligen an beigebracht wird so ist der Ergriffene auf freien Fuss zu setzen.

" Artikel IX.

" In Fällen, wo es nöthig sein mag, wird die schweizerische Regierung bei den Englischen Gerichtshöfen durch die Kronanwälte, und die Englische Regierung bei den schweizerischen Behörden durch die kompetenten schweizerischen Beamten vertreten sein.

" Die beiden Regierungen werden den Repräsentanten des andern States, welche ihre Intervention behufs der Verwahrung und Sicherung der auszuliefernden Person verlangen, auf ihren Gebieten die nöthige Hilfe gewähren.

" Für die aus diesem Artikel entspringende Rechtshilfe wird gegenseitig auf jede Vergütung von Kosten verzichtet.

" Artikel X.

" Der gegenwärtige Vertrag ist auf Verbrechen und Vergehen anwendbar, welche vor seiner Unterzeichnung begangen worden sind. Die ausgelieferte Person darf jedoch wegen keines andern in dem andern Lande vor der Auslieferung begangenen Verbrechens oder Vergehens zur Beurtheilung gezogen werden als wegen desjenigen, für welches die Auslieferung gewährt worden ist.

" Artikel XI.

" Ein flüchtiger Verbrecher soll nicht ausgeliefert werden, wenn die strafbare Handlung, wegen deren seine Auslieferung verlangt wird, einen politischen Charakter an sich trägt, oder wenn er nachweisen kann, dass der Antrag auf seine Auslieferung in Wirklichkeit mit der Absicht gestellt worden ist, ihn wegen eines Verbrechens oder Vergehens politischer Natur zu verfolgen oder zu bestrafen.

" Artikel XII.

" Die Auslieferung soll nicht stattfinden, wenn seit der begangenen strafbaren Handlung, oder der

Extradition :—Switzerland.

the penal prosecution, or the conviction thereon, exemption from prosecution or punishment has been acquired according to the laws of the State applied to.

Einleitung der strafverfolgung, oder Verurtheilung nach des ersuchten Staates der strafgerichtlich oder der erkannten treten ist.

" Article XIII.

" The extradition shall not take place if the person claimed on the part of the Government of the United Kingdom, or the person claimed on the part of the Swiss Government, has already been tried and discharged or punished, or is still under trial, in one of the Swiss Cantons or in the United Kingdom respectively, for the crime for which his extradition is demanded.

" Artikel 13

" Die Auslieferung stattfinden, wenn schweizerischen R folgte Person im Königreiche, oder d Regierung des Verei reiches verfolgte P Kanton der Schwe selben strafbaren H deren die Auslieferu wird, in Untersuchu ausser Verfolgung l oder sich noch in befindet, oder be worden ist.

" Article XIV.

" If the person claimed on the part of the Government of the United Kingdom, or if the person claimed on the part of the Swiss Government, should be under examination, or have been condemned for any other crime, in one of the Swiss Cantons or in the United Kingdom respectively, his extradition may be deferred until he shall have been set at liberty in due course of law.

" Artikel 14

" Wenn die von rischen Regierung v im Vereinigten Kö wenn die Seitens d des Vereinigten Kö folgte Person in eine Schweiz wegen einer baren Handlung in liegt oder verurthei so kann die Ausliefen werden bis die gehörigen Rechtsga gesetzt worden ist.

" In case such individual should be proceeded against in the country in which he has taken refuge, on account of obligations contracted towards private individuals, his extradition shall, nevertheless, take place; the injured party retaining his right to prosecute his claims before the competent authority.

" Wird ein solch wegen Verpflichtung mit Privatpersonen hat, in jenem Land es Zuflucht gen gerichtlich verfolgt, Auslieferung denno dabei aber der besch das Recht vorbehalte Ansprache vor der Behörde geltend zu r

" Article XV.

" If the individual claimed by one of the two High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers, on account of other crimes or offences committed upon their respective territories, his extradition shall be granted to that State whose demand is earliest in date.

" Artikel 15

" Wird ein Individ der beiden Vertrag Grund des gegenwärt zur Auslieferung rleich aber auch desse von einer oder me Mächten wegen and Gebieten begangen oder Vergehen ver dasjenige Gesuch in bewilligen, welches Datum ist.

" Article XVI.

" All articles seized, which were in the possession of the person to be surrendered at the time of his apprehension, shall, if the competent authority of the State applied to for the extradition has ordered the delivery thereof, be given up when the extradition takes place, and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof to the crime.

" This delivery shall take place even when the extradition, after having been granted, cannot be carried out by reason of the escape or death of the individual claimed, unless the claims of third parties with regard to the above-mentioned articles render such delivery inexpedient.

" Article XVII.

" The Contracting Parties renounce any claim for the reimbursement of the expenses incurred by them in the arrest and maintenance of the person to be surrendered, and his conveyance to the frontiers of the State to which the requisition is made; they reciprocally agree to bear such expenses themselves.

" Article XVIII.

" The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of Her Britannic Majesty.

" The requisition for the surrender of a fugitive criminal who has taken refuge in any of such Colonies or foreign possessions shall be made to the Governor or to the supreme authority of such Colony or possession through the Swiss Consul residing there, or, in case there should be no Swiss Consul, through the recognised Consular Agent of another State charged with the Swiss interests in the Colony or possession in question.

" Artikel XVI.

" Alle in Beschlag genommenen Gegenstände, welche zur Zeit der Verhaftung der auszuliefernden Person in deren Besitz waren, sollen, wenn die zuständige Behörde des um die Auslieferung ersuchten States die Ausantwortung derselben angeordnet hat, bei Vollziehung der Auslieferung mitübergeben werden, und diese Ueberlieferung soll sich nicht blos auf die entfremdeten Gegenstände, sondern auch auf Alles erstrecken, was zum Beweis, der strafbaren Handlung dienen kann.

" Die Ablieferung dieser Gegenstände soll auch dann stattfinden, wenn die bereits bewilligte Auslieferung wegen der Entweichung oder des Todes der auszuliefernden Person unmöglich geworden ist, es wäre denn, dass die Ansprüche dritter Personen in Betreff der erwähnten Gegenstände deren Ablieferung nicht zu lassen.

" Artikel XVII.

" Die vertragenden Theile verzichten darauf, die Erstattung derjenigen Kosten, welche ihnen aus der Festnahme und dem Unterhalte des Auszuliefernden und seinem Transport bis zur Grenze des requirirten States erwachsen, in Anspruch zu nehmen, willigen vielmehr gegenseitig darein diese Kosten selbst zu tragen.

" Artikel XVIII.

" Die Bestimmungen des gegenwärtigen Vertrages sollen auf die Kolonien und auswärtigen Besitzungen Ihrer Grossbritannischen Majestät Anwendung finden.

" Der Antrag auf Auslieferung eines flüchtigen Verbrechens, welcher in einer dieser Kolonien oder auswärtigen Besitzungen Zuflucht gefunden hat, soll bei dem Gouverneur oder bei der höchsten Behörde der betreffenden Kolonie oder Besitzung durch den in derselben residirenden schweizerischen Consul, oder in Ermangelung eines solchen, durch den anerkannten Konsularagenten eines andern States, welchen die Wahrung der schweizerischen Interessen in der fraglichen Kolonie oder Besitzung anvertraut wird, gestellt werden.

Extradition:—Switzerland.

"The Governor or supreme authority above-mentioned shall decide with regard to such requisitions as nearly as possible in accordance with the provisions of the present Treaty. He will, however, be at liberty either to consent to the extradition or report the case to his Government.

"Her Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of such individuals as shall have committed in Switzerland any of the crimes hereinbefore mentioned, who may take refuge within such Colonies and foreign possessions, on the basis, as nearly as may be, of the provisions of the present Treaty.

"The requisition for the surrender of a fugitive criminal from any Colony or foreign possession of Her Britannic Majesty shall be governed by the rules laid down in the preceding Articles of the present Treaty.

"Article XIX.

"The present Treaty shall come into force ten days after its publication in conformity with the forms prescribed by the laws of the High Contracting Parties.

"After the Treaty shall have come into force, the Treaty concluded between the High Contracting Parties on the 31st of March, 1874, shall be considered as cancelled, except as to any proceedings that may have been already taken or commenced in virtue thereof.

"It may be terminated by either of the High Contracting Parties, on giving to the other Party six months' notice of its intention to terminate the same, but no such notice shall exceed the period of one year.

"The Treaty shall be ratified, and the ratifications shall be exchanged at Berne as soon as possible.

"Der Gouverneur oder Behörde, welche sind, sollen bezug Auslieferungsbegehren conform mit den des vorliegenden V scheiden es steht ihr die Auslieferung z oder den Fall ihrer Entscheide zu überw

"Ihrer Grossbrit jestät soll es jedoch den Britischen F auswärtigen Besitzr Auslieferung solche die in der Schweiz e gennantes Verbrechen haben, aber inne Kolonien und ausw zungen Zuflucht ge auf möglichst gleich mit den Bestimmung wärtigen Verträge Anordnungen zu tref

"Begehren betreff führung von Verbre aus einer Kolonie od Besiung Ihrer Gros Majestät geflüchtet nach den Bestim vorstehenden Artike wärtigen Verträge werden.

"Artikel 2

"Der gegenwärtig zehn Tage nach der Kontrahenten in ges geschehenen Veröff Kraft treten.

"Nach dem Inkra Vertrages wird derje am 31 März 1874 beiden hohen Ve abgeschlossen wurde aufgehoben betrachte nur noch auf ein sole Anwendung finden inhalt seinen Vorsei stattgefunden hätte fangen worden wäre.

"Jeder der be Kontrahenten kann aufkünden, indem er vor dem Endtermin schluss der Gegenpa Eine solche Aufki darf jedoch die Daue nicht übersteigen.

"Der Vertrag wird die Ratifikationen sol lichst, in Bern werden.

"In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

"Done at Berne the twenty-sixth day of November in the year of our Lord one thousand eight hundred and eighty.

"(L.S.) *C. Vivian.*"

"Zur Urkunde dessen haben die beiderseitigen Bevollmächtigten die gegenwärtige Uebereinkunft unterzeichnet und mit ihren Wappen untersiegelt.

"So geschehen zu Bern den sechsundzwanzigsten November des Jahres, Ein tausend acht hundert und achtzig.

"(L.S.) *Anderwert.*"

And whereas the ratifications of the said Treaty were exchanged at Berne on the fifteenth day of March, one thousand eight hundred and eighty-one :

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and in virtue of the authority committed to Her by the said recited Acts, doth order, and it is hereby ordered, that from and after the thirtieth day of May, one thousand eight hundred and eighty-one, the said Acts shall apply in the case of the said Treaty with the Swiss Federal Council.

C. L. Peel.

(cc) **Tonga.**

At the Court at Windsor, the 30th day of November, 1882.

PRESENT :

The Queen's Most Excellent Majesty.

His Royal Highness Prince Leopold (Duke of Albany).

Lord Privy Seal.
Lord Steward.
Mr. Gladstone.

Secretary Sir William
Vernon Harcourt.

Whereas * * * [*Here follows the first recital to the Order relating to Luxemburg, printed at p. 141 above.*]

And whereas a Treaty was concluded on the Twenty-ninth day of November, One thousand eight hundred and seventy-nine, between Her Majesty and His Majesty the King of Tonga, of which Treaty Article IV., relating to the extradition of fugitive criminals, is in the terms following :—

"Her Britannic Majesty agrees to surrender to His Majesty the King of Tonga any Tongan subject who, being accused or convicted of any of the under-mentioned crimes, committed in the territory of the King of Tonga, shall be found within the territory of Her Britannic Majesty. The crimes for which such surrender may be granted are the following : murder, or attempt to murder ; embezzlement or larceny ; fraudulent bankruptcy ; forgery.

Extradition :—Tunis.

“ Her Britannic Majesty may, however, at any time put Article by giving notice to that effect to His Majesty the King of Tunis. The Article shall, however, remain in force for six months after the expiration of its termination.”

And whereas, previously to the exchange of the said Treaty, a Protocol bearing date the Third One thousand eight hundred and eighty-two, was sealed by the Plenipotentiaries of Her Majesty and of the King of Tonga respectively, being duly authorized for the purpose, which Protocol is in the terms following :—

“ It is agreed that the arrangement contained in Article IV. of the said Treaty shall be subject to the restrictions on the surrender of fugitives contained in the Acts respecting extradition, which are in force in England of Her Britannic Majesty, and the procedure to be adopted with respect to the surrender of such criminals shall be in conformity with the provisions of the said Acts.”

And whereas the ratifications of the said Treaty were deposited at Nukualofa on the Third day of July, One thousand eight hundred and eighty-two :

Now, therefore, Her Majesty, by and with the advice and consent of Her Privy Council, and in virtue of the authority conferred by the said recited Acts, doth order, and it is hereby enacted, that the said Acts shall apply in the case of Tonga and the King of Tonga, and that the said Treaty with His Majesty the King of Tonga shall be in full force and effect from and after the date of the said Protocol.

(dd) Tunis.

At the Court at Windsor, the 1st day of May

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.
Earl of Coventry.

Earl of Limerick.

Whereas * * * [*Here follow the first three resolutions of the Order relating to the Argentine Republic, printed at p. 1*]

And whereas a treaty was concluded on the fourteenth day of August one thousand eight hundred and seventy-six, between Her Majesty and The President of the French Republic, for the mutual extradition of fugitive criminals, in the case of which treaty the above-mentioned Acts of Parliament were applied by an Order in Council of the sixteenth of May, one thousand eight hundred and seventy-eight :

And whereas an arrangement was concluded on the thirty-first day of December one thousand eight hundred and eighty-nine, between the Government of Her Majesty and the Government of the French Republic, acting in the name of the Government of His Highness The Bey of Tunis, for extending the provisions of the said treaty of August 14, 1876, to Tunis, which arrangement is in the terms following :—

“The Government of Her Britannic Majesty on the one part, and the Government of the French Republic, acting in the name of the Government of His Highness the Bey of Tunis, on the other part, with a view to insure as far as possible the arrest and delivery to the competent jurisdiction of criminals who seek to escape by flight from the action of justice, have agreed as follows :—

“The provisions of the Anglo-French Convention of the fourteenth August, one thousand eight hundred and seventy-six, are extended to Tunis, except that the period of fourteen days, stipulated by Article IX of the said Convention, is prolonged to two months.

“The present arrangement shall have the same duration as the Convention of Extradition to which it relates.

“In witness whereof the undersigned his Excellency the Earl of Lytton, Her Britannic Majesty's Ambassador at Paris, and his Excellency M. Spuller, Minister for Foreign Affairs of the French Republic, have prepared the present arrangement, and have affixed thereto their seals.

“Done at Paris, the thirty-first day of December, one thousand eight hundred and eighty-nine.

“ (L.s.) **LYTTON.**
“ (L.s.) **E. SPULLER.”**

“Le Gouvernement de Sa Majesté Britannique d'une part, et le Gouvernement de la République Française, agissant au nom du Gouvernement de Son Altesse le Bey de Tunis, de l'autre, en vue d'assurer autant que possible l'arrestation et la remise à la juridiction compétente des malfaiteurs qui cherchent à se soustraire par la fuite à l'action de la justice, sont convenus de ce qui suit :—

“Les dispositions de la Convention Franco-Anglaise du 14 Août, 1876, sont étendues à la Tunisie, sauf que le délai de quatorze jours stipulé par l'Article IX de la dite Convention est porté à deux mois.

“Le présent arrangement aura la même durée que la Convention d'Extradition à laquelle il se rapporte.

“En foi de quoi les soussignés, son Excellence le Comte de Lytton, Ambassadeur de Sa Majesté Britannique à Paris, et son Excellence M. Spuller, Ministre des Affaires Étrangères de la République Française, ont dressé le présent arrangement, et y ont apposé leurs cachets.

“Fait à Paris, le 31 Décembre, 1889.

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and in virtue of the authority committed to Her

Extradition :—United States.

by the said recited Acts, doth order, and it is he that from and after the sixteenth day of May, eight hundred and ninety, the said Acts shall apply Tunis in conformity with the said arrangement with Republic.

Provided always, and it is hereby further order operation of the said Extradition Acts, 1870 and 18 suspended within the Dominion of Canada so far Tunis and to the said arrangement, and so long as of the Canadian Act aforesaid of 1886 † continue no longer.

(ee) United States.

At the Court at Windsor, the 21st day of March

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.

Duke of Rutland.

Lord Chamberlain.

Earl of Coventry.

Sir William Field.

Whereas * * * [*Here follow the first three re Order relating to the Argentine Republic, printed at 1*

And whereas a Convention was concluded on the of July one thousand eight hundred and eighty-r Her Majesty and the United States of America, fo extradition of fugitive criminals, which Convention is following :—

* 33 & 34 Vict. c. 52; 36 & 37 Vict. c. 60.

† "The Extradition Act" (Revised Statutes of Canada,

"Whereas by the Xth Article * of the Treaty concluded between Her Britannic Majesty and the United States of America on the 9th day of August 1842, provision is made for the extradition of persons charged with certain crimes;

"And whereas it is now desired by the High Contracting Parties that the provisions of the said Article should embrace certain crimes not therein specified, and should extend to fugitives convicted of the crimes specified in the said Article and in this Convention;

"The said High Contracting Parties have appointed as their Plenipotentiaries to conclude a Convention for this purpose, that is to say:—

"Her Majesty the Queen of the United Kingdom of Great Britain and Ireland; Sir Julian Pauncefote, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Knight Commander of the Most Honourable Order of the Bath, and Envoy Extraordinary and Minister Plenipotentiary of Her Britannic Majesty to the United States;

"And the President of the United States of America, James G. Blaine, Secretary of State of the United States;

"Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles:—

"ARTICLE I.

"The provisions of the said Xth Article are hereby made applicable to the following additional crimes:—†

"1. Manslaughter when voluntary.

"2. Counterfeiting or altering money; uttering or bringing into circulation counterfeit or altered money.

"3. Embezzlement; larceny; receiving any money, valuable security, or other property, knowing the same to have been embezzled, stolen, or fraudulently obtained.

"4. Fraud by a bailee, banker, agent, factor, trustee, or director or member or officer of any company, made criminal by the laws of both countries.

"5. Perjury, or subornation of perjury.

"6. Rape; abduction; child-stealing; kidnapping.

"7. Burglary; housebreaking or shopbreaking.

"8. Piracy by the law of nations.

"9. Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas, against the authority of the master; wrongfully

* This Article is as follows:—

X. It is agreed that Her Britannic Majesty and the United States shall, upon mutual requisitions by them or their ministers, officers, or authorities, respectively made, deliver up to justice all persons who, being charged with the crime of murder, or assault with intent to commit murder, or piracy, or arson, or robbery, or forgery, or the utterance of forged paper, committed within the jurisdiction of either, shall seek an asylum, or shall be found within the territories of the other: provided that this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial, if the crime or offence had there been committed: and the respective judges and other magistrates of the two Governments shall have power, jurisdiction, and authority, upon complaint made under oath, to issue a warrant for the apprehension of the fugitive or person so charged, that he may be brought before such judges or other magistrates respectively, to the end that the evidence of criminality may be heard and considered; and if, on such hearing, the evidence be deemed sufficient to sustain the charge, it shall be the duty of the examining judge or magistrate to certify the same to the proper executive authority, that a warrant may issue for the surrender of such fugitive. The expense of such apprehension and delivery shall be borne and defrayed by the party who makes the requisition and receives the fugitive.

† Further crimes are added by Convention of Dec. 13, 1800, printed below.

sinking or destroying a vessel at sea, or attempting to do so; assaults on board a ship on the high seas, with intent to do grievous bodily harm.

"10. Crimes and offences against the laws of both countries for the suppression of slavery and slave-trading.

"Extradition is also to take place for participation in any of the crimes mentioned in this Convention or in the aforesaid Xth Article, provided such participation be punishable by the laws of both countries.

" ARTICLE II.

"A fugitive criminal shall not be surrendered, if the offence in respect of which his surrender is demanded be one of a political character, or if he proves that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character.

"No person surrendered by either of the High Contracting Parties to the other shall be triable or tried, or be punished for any political crime or offence, or for any act connected therewith, committed previously to his extradition.

"If any question shall arise as to whether a case comes within the provisions of this Article, the decision of the authorities of the Government in whose jurisdiction the fugitive shall be at the time shall be final.

" ARTICLE III.

"No person surrendered by or to either of the High Contracting Parties shall be triable or be tried for any crime or offence committed prior to his extradition, other than the offence for which he was surrendered, until he shall have had an opportunity of returning to the country from which he was surrendered.

" ARTICLE IV.

"All articles seized which were in the possession of the person to be surrendered at the time of his apprehension, whether being the proceeds of the crime or offence charged, or being material as evidence in making proof of the crime or offence, shall, so far as practicable, and if the competent authority of the State applied to for the extradition has ordered the delivery thereof, be given up when the extradition takes place. Nevertheless, the rights of third parties with regard to the articles aforesaid shall be duly respected.

" ARTICLE V.

"If the individual claimed by one of the two High Contracting Parties, in pursuance of the present Convention, should also be claimed by one or several other Powers on account of crimes or offences committed within their respective jurisdictions, his extradition shall be granted to that State whose demand is first received.

"The provisions of this Article, and also of Articles II. to IV. inclusive, of the present Convention, shall apply to surrender for offences specified in the aforesaid Xth Article, as well as to surrender for offences specified in this Convention.

" ARTICLE VI.

"The extradition of fugitives under the provisions of this Convention and of the said Xth Article shall be carried out in Her Majesty's dominions and in the United States, respectively, in conformity with the laws regulating extradition for the time being in force in the surrendering State.

"ARTICLE VII.

"The provisions of the said Xth Article and of this Convention shall apply to persons convicted of the crimes therein respectively named and specified, whose sentence therefor shall not have been executed.

"In case of a fugitive criminal alleged to have been convicted of the crime for which his surrender is asked, a copy of the record of the conviction, and of the sentence of the Court before which such conviction took place, duly authenticated, shall be produced, together with the evidence proving that the prisoner is the person to whom such sentence refers.

"ARTICLE VIII.

"The present Convention shall not apply to any of the crimes herein specified which shall have been committed, or to any conviction which shall have been pronounced, prior to the date at which the Convention shall come into force.

"ARTICLE IX.

"This Convention shall be ratified, and the ratifications shall be exchanged at London as soon as possible.

"It shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties, and shall continue in force until one or the other of the High Contracting Parties shall signify its wish to terminate it, and no longer.

"In witness whereof, the Undersigned have signed the same, and have affixed thereto their seals.

"Done in duplicate, at the city of Washington, this 12th day of July, 1889.

"(L.S.) *Julian Poncefote.*

"(L.S.) *James G. Blaine.*"

And whereas the ratifications of the said Convention were exchanged at London on the eleventh day of March, one thousand eight hundred and ninety ;

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and in virtue of the authority committed to Her by the said recited Acts, doth order, and it is hereby ordered, that from and after the fourth day of April, one thousand eight hundred and ninety, the said Acts shall apply in the case of the United States of America, and of the said Convention with the United States of America.

Provided always, and it is hereby further ordered, that the operation of the said Extradition Acts, 1870 and 1873,* shall be suspended within the Dominion of Canada so far as relates to the United States of America and to the said Convention, and so long as the provisions of the Canadian Act aforesaid of 1886† continue in force, and no longer.

C. L. Peel.

* 33 & 34 Vict. c. 52 ; 36 & 37 Vict. c. 60.

† "The Extradition Act" (Revised Statutes of Canada, c. 142).

1901. No. 544.

At the Court at St. James's, the 26th day of Ju

PRESENT :

The King's Most Excellent Majesty.

Lord President.

Lord Privy Seal.

Duke of Norfolk.

Duke of Portland.

Marquis of Dufferin and Ava.

Lord Steward.

Lord Chamberlain.

Lord Suffield.

Mr. Ritchie.

Whereas * * * [*Here follows the first recital relating to Belgium, printed at p. 20 above.*]

And whereas a Convention was concluded on the December, 1900, between Her late Majesty Queen the President of the United States of America, for extradition of fugitive criminals, which Convention is following :—

“ Her Majesty the Queen of Great Britain and the President of the United States of America, desirous of enlarging the list of crimes on account of which extradition may be granted under the Convention between Her Britannic Majesty and the United States of America, the 12th July, 1889,* with a view to the better administration of justice and the prevention of crime in the territories and jurisdictions, have resolved to

* Printed at p. 271 above.

Supplementary Convention for this purpose, and have appointed as their Plenipotentiaries, to wit :—

“ Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, his Excellency the Right Honourable Lord Pauncefoot, Knight Grand Cross of the Most Honourable Order of the Bath, Knight Grand Cross of the Most Distinguished Order of St. Michael and St. George, and Her Majesty's Ambassador Extraordinary and Plenipotentiary to the United States ; and

“ The President of the United States, the Honourable John Hay, Secretary of State of the United States ;

“ Who, after having communicated to each other their respective full powers, which were found to be in due and proper form, have agreed to and concluded the following Articles :—

“ ARTICLE I.

“ The following crimes are added to the list of crimes numbered 1 to 10 in the first Article of the said Convention of July 12, 1889, on account of which extradition may be granted, that is to say :

“ 11. Obtaining money, valuable securities, or other property by false pretences.

“ 12. Wilful and unlawful destruction or obstruction of railroads which endangers human life.

“ 13. Procuring abortion.

“ ARTICLE II.

“ The present Convention shall be considered as an integral part of the said Extradition Convention of July 12, 1889, and the first Article of the last-mentioned Convention shall be read as if the list of crimes therein contained had originally comprised the additional crimes specified, and numbered 11 to 13 in the first Article of the present Convention.

“ The present Convention shall be ratified, and the ratifications shall be exchanged either at London or Washington as soon as possible.

“ It shall come into force ten days after its publication, in conformity with the Laws of the High Contracting Parties, and it shall continue and terminate in the same manner as the said Convention of July 12, 1889.

Extradition :—Uruguay.

“ In testimony whereof the respective Plenipotentiaries signed the present Convention in duplicate, and affixed their seals.

“ Done at Washington, this 13th day of Dec

“ (Signed)

And whereas the ratifications of the said Convention were exchanged at Washington on the 22nd day of April,

Now, therefore, His Majesty, by and with the Privy Council, and in virtue of the authority conferred by the said recited Acts, doth order, and it is hereby enacted, that from and after the 13th day of July, 1901, the said Convention shall apply in the case of the United States and of the Dominion of Canada, and shall have the same force and effect as if the said Convention had been made with the President of the United States of America.

Provided always that the operation of the said Convention shall not extend to any case in which an Act of the Parliament of Canada passed in 1886, entitled “ An Act respecting the Extradition of Fugitive Criminals,” shall have been amended, or shall be amended, or shall continue in force there, and no longer.

A

(ff) Uruguay.

At the Court at Windsor, the 5th day of March, 1901.

PRESENT :

The Queen's Most Excellent Majesty

Lord President.		Lord Stew
Lord Privy Seal.		Mr. Trevelyan.

Whereas * * * [*Here follows the first recital relating to the Argentine Republic, printed at p. 1 above, and the second recital to the Order relating to Ecuador, printed at p. 2 above.*]

And whereas a Treaty was concluded on the 25th day of March, one thousand eight hundred and eighty-eight, between Her Majesty and the Oriental Republic of the Uruguay, for the mutual extradition of fugitive criminals, which Treaty contains the following terms :—

“ Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Excellency	“ Su Magestad la Reina de la Gran Bretaña e Irlanda, y Su Excelencia
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* “ The Extradition Act ” (Revised Statutes of Canada).

the President of the Oriental Republic of the Uruguay, having judged it expedient, with a view to the better administration of justice and the prevention of crime, that persons charged with or convicted of the crimes hereinafter enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up, have resolved to conclude the present Treaty, and have appointed as their Plenipotentiaries, namely:

"Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Honourable Edmund John Monson, a Companion of the Most Honourable Order of the Bath, Her Majesty's Minister Resident and Consul-General to the Oriental Republic of the Uruguay; and

"His Excellency the President of the Oriental Republic of the Uruguay, Dr. Don Manuel Herrera y Obes, his Minister Secretary of State for the Department of Foreign Affairs;

"Who after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following Articles:—

"Article I.

"The High Contracting Parties engage to deliver up to each other reciprocally, under the circumstances and conditions stated in the present Treaty, all persons, excepting their own subjects or citizens, who, being accused or convicted of any of the crimes enumerated in Article II. committed in the territory of the one party, shall be found within the territory of the other party.

"Article II.

"The extradition shall be reciprocally granted for the following crimes or offences:—

"1. Murder (including assassination, parricide, infanticide, poisoning, or attempt to murder).

"2. Manslaughter.

"3. Administering drugs or using instruments with intent to procure the miscarriage of women.

"4. Rape.

dente de la República Oriental del Uruguay, habiendo juzgado conveniente, á fin de contribuir á la mejor administracion de la justicia y á la prevencion del crimen, que las personas acusadas ó sentenciadas por los crímenes ó delitos mas abajo enumerados, y fugitivos de la justicia, sean reciprocamente entregados en determinadas circunstancias, han resuelto estipular el presente Tratado y nombrado por sus Plenipotenciarios, á saber:

"Su Magestad la Reina del Reino Unido de la Gran Bretaña é Irlanda al Honorable Edmundo Juan Monson, Compañero de la Muy Honorable Orden del Baño, Ministro Residente y Consul-General de Su Magestad en la República Oriental del Uruguay; y

"Su Excelencia el Presidente de la República Oriental del Uruguay, al Señor Dr. Don Manuel Herrera y Obes, su Ministro Secretario de Estado en el Departamento de Relaciones Exteriores;

"Quienes, despues de haberse comunicado sus plenos poderes respectivos, y de hallarlos en buena y debida forma, han convenido en los Articulos siguientes:—

"Articulo I.

"Las Altas Partes Contratantes se obligan á entregarse recíprocamente, en las circunstancias y condiciones estipuladas en el presente Tratado, á todas las personas con excepcion de sus propios ciudadanos ó súbditos, que habiendo sido encausados ó sentenciados por cualesquiera de los crímenes enumerados en el Artículo II y cometidos en el territorio de una de las Partes, sean halladas en el territorio de la otra.

"Articulo II.

"Se concederá recíprocamente la extradicion por los siguientes crímenes ó delitos:—

"1. Asesinato, parricidio, infanticidio, envenenamiento, ó tentativa de asesinato.

"2. Homicidio.

"3. Aborto voluntario.

"4. Violacion.

Extradition :—Uruguay.

"5. Aggravated or indecent assault. Carnal knowledge of a girl under the age of 10 years; carnal knowledge of a girl above the age of 10 years and under the age of 12 years; indecent assault upon any female, or any attempt to have carnal knowledge of a girl under 12 years of age.

"6. Kidnapping and false imprisonment, child-stealing, abandoning, exposing, or unlawfully detaining children.

"7. Abduction of minors.

"8. Bigamy.

"9. Wounding, or inflicting grievous bodily harm, when such acts cause permanent disease or incapacity for personal labour, or the absolute loss or privation of a member or organ.

"10. Arson.

"11. Burglary or housebreaking, robbery with violence, larceny or embezzlement.

"12. Fraud by banker, agent, factor, trustee, director, member, or public officer of any company, made criminal by any law for the time being in force.

"13. Obtaining money, valuable security, or goods by false pretences; receiving any money, valuable security, or other property knowing the same to have been feloniously stolen or unlawfully obtained, the quantity or value of which shall be greater in amount than 200*l.* sterling.

"14. (a.) Counterfeiting or altering money, or bringing into circulation counterfeited or altered money;

"(b.) Forgery, or counterfeiting, or altering or knowingly uttering what is forged, counterfeited, or altered;

"(c.) Knowingly making without lawful authority any instrument, tool, or engine adapted or intended for the counterfeiting of coin of the realm.

"15. Crimes against the Bankruptcy Law.

"16. Any malicious act done with intent to endanger persons in a railway train.

"5. Atentado gr
pudor consumado s
uno ú otro sexo mer

"6. Secuestro, r
exposicion, ó reten
niños.

"7. Sustraccion c

"8. Bigamia.

"9. Heridas ó les
graves cuando caus
ó incapacidad permu
bajo personal, la pér
absoluta de un m
órgano.

"10. Incendio vol

"11. Hurto y rob

"12. Defraudacion
un banquero, comisio
trador, tutor, curad
sindico, funcionario
rector, miembro ó er
sociedad, ó por c
persona.

"13. Estafa, ocul
lenta de dinero, va
muebles y adquisici
mos, con conocimien
sido ilegalmente ol
cantidad ó precio ses
cientas libras esterlin

"14. (a.) Fabricac
de moneda falsa ó ali

"(b.) Falsificacion
de importancia ó
mismos á sabiend
de los sellos del Est
timbres ó papel sel
de sellos, punzones ó
ficados con conocim
que se comete.

"(c.) Fabricacion i
mentos para la fa
cuño de la moneda.

"15. Bancarrota f

"16. Actos comet
cion de poner en peli
los viajeros en un t
de hierro.

"17. Malicious injury to property if such offence be indictable, and punishable with one year's imprisonment or more.

"18. Crimes committed at sea:—

"(a.) Piracy by the law of nations;

"(b.) Sinking or destroying a vessel at sea, or attempting or conspiring to do so;

"(c.) Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master;

"(d.) Assault on board a ship on the high seas with intent to destroy life, or to do grievous bodily harm.

"19. Dealing in slaves in such manner as to constitute an offence against the laws of both countries.

"The extradition is also to take place for participation in any of the aforesaid crimes as an accessory before or after the fact, provided such participation be punishable by the laws of both Contracting Parties.

" Article III.

"The provisions of the present Treaty shall not be applicable to offences committed before the date of its conclusion.

" Article IV.

"A person surrendered shall not be detained or tried for any crime or offence committed in the other country before the extradition other than the crime or offence for which his surrender has been granted.

" Article V.

"No person shall be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove to the satisfaction of the competent authority of the State in which he is that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character.

" Article VI.

"In the Oriental Republic of the Uruguay the proceedings for the

"17. Destrucción ó deterioro de cualquier propiedad mueble ó inmueble penado por la ley con un año ó mas de prision.

"18. Crímenes que se cometen en la mar:—

"(a.) Pirate ia;

"(b.) Destrucción ó pérdida de un buque, causada intencionalmente, ó conspiración para dicho objeto;

"(c.) Rebelion ó conspiración por dos ó mas personas para rebelarse á bordo de un buque contra la autoridad del capitán á bordo de un buque en alta mar;

"(d.) Actos cometidos con intención de matar ó de causar daño material á personas á bordo de un buque en alta mar.

"19. Trata de esclavos, con arreglo á las leyes de cada uno de ambos Estados respectivamente.

"La extradición tendrá tambien lugar por complicidad en cualquiera de los crímenes y delitos enumerados en este Artículo, con tal que sea punible por las leyes de ambas Partes Contratantes.

" Artículo III.

"Las disposiciones del presente Tratado no se aplicarán á los crímenes cometidos anteriormente á su fecha.

" Artículo IV.

"La persona que haya sido entregada, en virtud de las estipulaciones de este Convenio, no podrá en ningun caso ser encausada por otro crimen ó delito cometido en el país que la reclama que aquel por el cual se concedió la extradición.

" Artículo V.

"No se hará la entrega de persona alguna si el delito por que se pide su extradición es de carácter político, ó si dicha persona prueba á satisfaccion de la autoridad competente del Estado donde se halla que la demanda de entrega ha sido hecha, en realidad, con objeto de perseguirla ó castigarla por un delito de carácter político.

" Artículo VI.

"En la República Oriental del Uruguay el procedimiento para

Extradition :—Uruguay.

demand and obtaining extradition shall be as follows:—

“The Diplomatic Representative or Consul-General of Great Britain shall address to the Minister Secretary of State in the Department of Foreign Relations, with the demand for extradition, an authentic and legalized copy of the sentence or mandate of arrest issued by competent authority, or other documents of the same legal force, against the accused person, setting forth clearly the crime or offence on account of which proceedings are being taken against the fugitive. These judicial documents shall be accompanied, if possible, by a description of the person claimed, and by any other information or intelligence which may serve to identify such person.

“These documents shall be communicated by the Minister of Foreign Relations to the Superior Tribunal of Justice, which, in its turn, shall transmit them to the Stipendiary Magistrate (Juez Letrado del Crimen). This functionary shall have power, authority, and jurisdiction, in virtue of the claim preferred, to issue the formal order of arrest of the person so claimed, in order that he may be brought before him, and that, in his presence, and after hearing his defence, the proofs of his criminality may be taken into consideration; and if the result of this audience be that the said proofs are sufficient to sustain the charge, he shall be obliged to issue the formal order of delivery, giving notice thereof, by the medium of the Superior Tribunal of Justice, to the Minister of Foreign Relations, who shall dictate the necessary measures for placing the fugitive at the disposal of the British Agents charged to receive him.

“In case the documents furnished by Her Britannic Majesty's Government for the identification of the person claimed, or the information obtained for the same end by the authorities of the Oriental Republic of the Uruguay, be held to be insufficient, notice shall immediately be given of the fact to the Diplomatic Representative or Consular Agent of Great Britain, the person under arrest remaining in custody until the British Government shall have furnished new proofs to esta-

solicitar y obtener será el siguiente:—

“El Representante ó el Cónsul-Genera de Gran Bretaña dirigirá al Ministro de Estado en el Departamento de Relaciones Exteriores, con la demanda, una copia autenticada de la sentencia o mandado de prisión, expedido por autoridad competente, u otros documentos de la misma fuerza legal, contra la persona acusada, manifestando el crimen o delito de que se procede contra ella. A esos documentos se acompañarán, si es posible, la descripción de la persona reclamada, y cualquier otra noticia que pueda ser útil para

“Estos documentos serán comunicados por el Ministro de Relaciones Exteriores al Tribunal de Justicia, el cual los pasará al Juez Letrado del Crimen. Este funcionario tendrá el poder, autoridad y jurisdicción, en virtud de la demanda preferida, para emitir el orden de arresto de la persona reclamada, a fin de que se le presente ante sí, y de que en su presencia, y después de oír su defensa, se tomen en consideración las pruebas de su criminalidad, y si de ellas resultare que dichas pruebas son suficientes para sostener la acusación, estará obligado a emitir el orden formal de entrega, dando noticia de ello por intermedio del Tribunal de Justicia, al Ministro de Relaciones Exteriores, quien dictará las medidas necesarias para poner al fugitivo a disposición de los Agentes Británicos encargados de recibirlo.

“En caso de que los documentos suministrados por el Gobierno de Su Magestad Británica para la identificación de la persona reclamada, o la información obtenida para el mismo fin por las autoridades de la República Oriental del Uruguay, sean considerados insuficientes, se dará inmediatamente aviso de este hecho al Representante Diplomático o Agente Consular de Gran Bretaña, quedando detenido el preso hasta que el Gobierno Británico haya sumi-

blish the identity of such person, or evidence to clear up other difficulties relating to the examination of, and decision upon, the matter.

"The arrest above referred to of the person proceeded against for any of the crimes or offences specified in this Treaty shall not be prolonged more than three months. At the expiration of that period, if the Government making the claim shall not have fulfilled the conditions above stated, the prisoner shall be released, and shall not be liable to be rearrested on the same charge.

" Article VII.

"In the dominions of Her Britannic Majesty, other than the Colonies or foreign Possessions of Her Majesty, the manner of proceeding, in order to demand and obtain extradition, shall be as follows:—

"(a.) In the case of a person accused—The requisition for the surrender shall be made to Her Britannic Majesty's Principal Secretary of State for Foreign Affairs by the Diplomatic Representative or Consul-General of the Oriental Republic of the Uruguay. The said demand shall be accompanied by a warrant of arrest or other equivalent judicial document, issued by a Judge or Magistrate duly authorised to take cognizance of the acts charged against the accused in that Republic and duly authenticated depositions or statements taken on oath before such Judge or Magistrate, clearly setting forth the said acts, and containing a description of the person claimed, and any particulars which may serve to identify him.

"The said Principal Secretary of State shall transmit such documents to Her Britannic Majesty's Principal Secretary of State for the Home Department, who shall then, by order under his hand and seal, signify to some Police Magistrate in London that such requisition has been made, and require him, if there be due cause, to issue his warrant for the apprehension of the fugitive. On the receipt of such order from the Secretary of State, and on the production of such evidence as would, in the opinion of the Magistrate, justify the issue of the warrant if the crime had been committed in the United

pruebas para establecer la identidad de aquella ó para esclarecer cualquiera otra dificultad relativa al exámen y resolución del asunto.

"El arresto á que se ha hecho referencia anteriormente de la persona perseguida por alguno de los crímenes ó delitos especificados en este Tratado no podrá prolongarse mas de tres meses. Vencido este plazo, si el Gobierno reclamante no ha llenado aquella condicion, el preso será puesto en libertad y no podrá ser detenido nuevamente por la misma causa.

" Artículo VII.

"En los Estados de Su Magestad Británica, con excepcion de las Colonias ó Posesiones extranjeras, el procedimiento para pedir y obtener la extradicion será el siguiente:—

"(a.) En el caso de una persona acusada, la demanda será dirigida al Principal Secretario de Estado de Su Magestad Británica para los Negocios Estrangeros por el Representante Diplomático ó el Cónsul-General de la República Oriental del Uruguay. A dicha demanda acompañará un auto de prision ó otro documento judicial equivalente expedido por un Jues ó Magistrado competentemente autorizado para conocer en la causa formada al acusado en esta República, y las deposiciones ó declaraciones bajo juramento ante dicho Jues ó Magistrado, manifestando claramente el crimen ó delito de que se le acusa, y por último, si es posible, la seña de la persona reclamada, y cualesquiera otros datos que puedan ser útiles para establecer su identidad.

"Dicho Principal Secretario de Estado transmitirá los documentos enunoiados al Principal Secretario de Estado de Su Magestad Británica para los Negocios Interiores ("Home Department"), quien, por una órden de su puño y provista de su sello, someterá la demanda de extradicion á un Magistrado de Policia de Londres, requiriéndole que espida, si ha lugar, un mandato de prision contra la persona reclamada. Este Magistrado espedirá el mandato requerido si las pruebas presentadas fuesen en su opinion bastantes á justificar igual medida en el supuesto de haberse cometido al crimen ó delito en el Reino Unido.

Extradition :—Uruguay.

Kingdom, he shall issue his warrant accordingly.

"When the person claimed shall have been apprehended, he shall be brought before the Magistrate who issued the warrant, or some other Police Magistrate in London. If the evidence to be then produced shall be such as to justify, according to the law of England, the committal for trial of the prisoner, if the crime of which he is accused had been committed in the United Kingdom, the Police Magistrate shall commit him to prison to await the warrant of the Secretary of State for his surrender, sending immediately to the Secretary of State a certificate of the committal and a report upon the case.

"After the expiration of a period from the committal of the prisoner, which shall never be less than fifteen days, the Secretary of State shall, by order under his hand and seal, order the fugitive criminal to be surrendered to such person as may be duly authorized to receive him on the part of the Oriental Republic of the Uruguay.

"(b.) In the case of a person convicted—The course of proceeding shall be the same as above indicated, except that the warrant to be transmitted by the Diplomatic Representative or Consul-General of the Oriental Republic of the Uruguay in support of his requisition shall clearly set forth the crime or offence of which the person claimed has been convicted, and state the place and date of his conviction.

"The evidence to be produced before the Police Magistrate shall be such as would, according to the law of England, prove that the prisoner was convicted of the crime charged.

"(c.) Persons convicted by judgment in default or *arrêt de contumace* shall be, in the matter of extradition, considered as persons accused, and, as such, be surrendered.

"(d.) After the Police Magistrate shall have committed the accused or convicted person to prison to await the order of a Secretary of State for his surrender, such person shall have the right to apply for a writ of *habeas corpus*; if he should

"Verificada la persona reclamada ante el Magistrado auto de prision ó otro Magistrado Londres. Si las pruebas justificasen, según la ley de Inglaterra, el acto por el cual hubiese sido cometido el delito, el Magistrado ordenará su prision Secretario de Estado para que la verifique, y dirigirá á esta certificación el hecho juntamente sobre el asunto.

"A la terminación no menor de quince días, el Secretario de Estado mandará, por orden de su puño y sello, que sea aquel comisionado autorizarlo por el Gobierno Oriental del Uruguay.

"(b.) En el caso de una persona condenada, el procedimiento será el mismo que queda indicado, excepto que el auto ó mandato será presentado por el Representante Diplomático ó Cónsul General de la República Oriental en apoyo de su requisición expresará el crimen ó delito por el cual la persona reclamada haya sido condenada, y mencionando el lugar y la fecha de la condena.

"La prueba que deberá ser presentada ante el Magistrado de Policía será tal como en la ley de Inglaterra, para probar que el detenido ha sido culpado de la infracción de que se acusa.

"(c.) Los sentenciados por defecto ó en contumacia serán considerados como acusados y serán entregados en este concepto.

"(d.) Después de haber sido cometido el acusado ó la persona condenada, hasta que reciba el orden del Secretario de Estado para que la verifique, dicha persona tendrá el derecho de reclamar un writ de *habeas corpus*.

so apply, his surrender must be deferred until after the decision of the Court upon the return to the writ, and even then can only take place if the decision is adverse to the applicant. In the latter case the Court may at once order his delivery to the person authorized to receive him, without the order of a Secretary of State for his surrender, or commit him to prison to await such order.

" Article VIII.

" Warrants, depositions, or statements on oath, issued or taken in the dominions of either of the two High Contracting Parties, and copies thereof, and certificates of or judicial documents stating the fact of conviction, shall be received in evidence in proceedings in the dominions of the other, if purporting to be signed or certified by a Judge, Magistrate, or officer of the country where they were issued or taken, provided such warrants, depositions, statements, copies, certificates, and judicial documents are authenticated by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of State.

" Article IX. *

" A fugitive criminal may be apprehended under a warrant issued by any Police Magistrate, Justice of the Peace, or other competent authority in either country, on such information or complaint, and such evidence, or after such proceedings as would, in the opinion of the authority issuing the warrant, justify the issue of a warrant if the crime had been committed or the person convicted in that part of the dominions of the two Contracting Parties in which the Magistrate, Justice of the Peace, or other competent authority exercises jurisdiction: Provided, however, that in the United Kingdom the accused shall, in such case, be sent as speedily as possible before a Police Magistrate in London. He shall in accordance with this Article be discharged, as well in the United Kingdom as in the Oriental Republic of the Uruguay, if within the term

de *habeas corpus*. Si hiciere uso de este derecho, la extradición se diferirá hasta que el Tribunal falle sobre el incidente, y no podrá llevarse á cabo sino cuando el fallo sea adverso al reclamante. En este caso el Tribunal podrá mandar, sin la orden de un Secretario de Estado, la inmediata entrega del acusado al comisionado autorizado para hacerse cargo de él, ó mantenerle en prisión hasta que dicha orden del Secretario de Estado sea espedida.

" Artículo VIII.

" Los autos, mandatos, declaraciones juradas, espedidas ó tomadas en los Estados de una de las Altas Partes Contratantes, las copias de esos documentos, así como las certificaciones ó documentos judiciales en que se funde la acusación ó la condena, serán recibidos como pruebas en el procedimiento de los Estados de la otra, si están provistos de la firma ó certificación de un Juez, de un Magistrado ó de un funcionario del país en que hallan sido espedidos ó tomados, y siempre que dichos autos, mandatos, declaraciones, copias, certificaciones, ó documentos judiciales sean certificados por el juramento de un testigo ó por el sello oficial del Ministro de Justicia ó algun otro Ministro de Estado.

" Artículo IX. *

" Todo criminal fugitivo podrá ser detenido por mandato de cualquier Magistrado de Policía, Juez de Paz ó Municipal ú otra autoridad competente en cada uno de los Estados espedido en virtud de informe, demanda, prueba ó todo otro acto de procedimiento que en opinión de la autoridad que espidiese el mandato fuese bastante á justificar este, si el crimen ó delito hubiese sido cometido ó la persona hubiese sido condenada en la parte de los Estados de ambos Contratantes en que el Magistrado, Juez de Paz ú otra autoridad competente ejercea jurisdicción: á condición, sin embargo, en el Reino Unido de que se haga comparecer al acusado tan pronto como sea posible, ante un Magistrado de Policía de Londres. Así en la República Oriental como en el Reino Unido, el detenido, con arreglo á este Artículo, será puesto en libertad si en un término de

* This Article is amended by Protocol of March 20, 1891, printed at p. 288 below.

Extradition :—Uruguay.

of [thirty]* days a requisition for extradition shall not have been made by the Diplomatic or Consular Agent of his country in accordance with the stipulations of this Treaty.

"The same rule shall apply to the cases of persons accused or convicted of any of the crimes or offences specified in this Treaty, and committed on the high seas on board any vessel of either country which may come into a port of the other.

" Article X.

"The stipulations of the present Treaty shall be applicable to the Colonies and foreign Possessions of Her Britannic Majesty.

"The requisition for the surrender of a fugitive criminal who has taken refuge in any of such Colonies or foreign Possessions shall be made to the Governor or chief authority of such Colony or Possession by the Chief Consular Officer of the Oriental Republic of the Uruguay in such Colony or Possession.

"Such requisition may be disposed of, subject always, as nearly as may be, to the provisions of this Treaty, by the said Governor or chief authority, who, however, shall be at liberty either to grant the surrender or to refer the matter to his Government.

"Her Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and foreign Possessions for the surrender of Uruguayan criminals who may take refuge within such Colonies and foreign Possessions, on the basis, as nearly as may be, of the provisions of the present Treaty.

" Article XI.

"The claim for extradition shall not be complied with if the individual claimed has been already tried for the same offence in the country whence the extradition is demanded, or if, since the commission of the acts charged, the accusation or the conviction, exemption from prosecution or punishment,

[treinta]* dias no l demanda de ext Representante Dip sular de su país, estipulaciones de e

"La misma req los casos de pers condenadas por c crímenes ó delitos este Tratado, y c mar á bordo de l de los dos países puerto del otro.

" Artic

"Las estipulaci Tratado serán a Colonias y Posesi de Su Magestad B

"La demanda c criminal fúgitivo refugiado en cual Colonias ó Posesi se dirigirá al Go autoridad superior ó Posesion por el Consular de la B del Uruguay en Posesion.

"Esos pedidos s sujetándolos en c á las disposicion Tratado, por el e nador ó autoridad se reserva á esto conceder la extrad la resolucíon del de Su Magestad B

"Su Magestad de hacer arreglos Colonias Británic extranjeras para criminales que se espresadas Coloni extranjeras, bajo l sea posible, de las presente Tratado.

" Artic

"No se dará cu de extradicióon cu reclamada hubiese el mismo crímen Estado al cual aq dirija; ni tampon de los actos qu crímen ó delito de despues de la ac

* Altered to "sixty" ("sesenta") by Protocol of March 1 p. 288 below.

has been acquired by lapse of time, according to the laws of that country.

de la condena, tenga el derecho al beneficio de la prescripcion segun las leyes de dicho Estado.

" Article XII.

"If the individual claimed by one of the two High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers, on account of other crimes or offences committed upon their respective territories, his extradition shall be granted to that State whose demand is earliest in date.

" Artículo XII.

"Cuando la persona reclamada por una de las Altas Partes Contratantes, en virtud del presente Tratado, fuese reclamada asimismo por uno ó varios otros Estados á causa de crímenes ó delitos cometidos en sus territorios respectivos, su extradicion será concedida al Estado cuya demanda sea de fecha anterior.

" Article XIII.

"If the individual claimed should be under prosecution, or have been condemned for a crime or offence committed in the country where he may have taken refuge, his surrender may be deferred until he shall have been discharged in due course of law.

"In case he should be proceeded against or detained in such country, on account of obligations contracted towards private individuals, the extradition shall nevertheless take place.

" Artículo XIII.

"Quando la persona reclamada estuviere encausada ó hubiese sido condenada por un crimen ó delito cometido en el Estado en que se hubiese refugiado, su extradicion podrá diferirse hasta que haya sido puesta en libertad con arreglo á las leyes.

"En el caso de que dicha persona reclamada se hallase acusada ó detenida en el pais en que se hubiese refugiado por obligaciones contraidas respecto de personas particulares, la extradicion se llevará sin embargo á cabo.

" Article XIV.

"Every article found in the possession of the individual claimed at the time of his arrest shall, if the competent authority so decide, be delivered up with his person at the time when the extradition takes place. Such delivery shall not be limited to the property or articles obtained by stealing or by fraudulent bankruptcy, but shall extend to everything that may serve as proof of the crime or offence, and shall take place even when the extradition, after having been granted, cannot be carried out by reason of the escape or death of the individual claimed.

"The rights of third parties with regard to the said property or articles are nevertheless reserved.

" Artículo XIV.

"Si la autoridad competente lo dispusiere así, los objetos hallados en poder de la persona reclamada serán aprehendidos para ser entregados con ella cuando la extradicion se verifique. Compréndese en esta disposicion no solo los objetos robados ó procedentes de quiebra fraudulenta, sino tambien cualesquiera otros que pudiesen servir para la comprobacion del crimen ó delito. Dichos objetos serán igualmente entregados despues de ser acordada la extradicion sino se pudiese llevar esta á cabo por la fuga ó la muerte de la persona reclamada.

"Lo dispuesto en el presente Artículo se entiende sin perjuicio del derecho de tercero.

" Article XV.

"The High Contracting Parties renounce any claim for the reimbursement of the expenses incurred by them in the arrest and maintenance of the person to be surrendered, and his conveyance as far as

" Artículo XV.

"Las Altas Partes Contratantes renuncian al reembolso de los gastos ocasionados por ellos para la detencion, manutencion y conduccion hasta su frontera de las personas entregadas, conviniendo en sufragar

Extradition :—Uruguay.

the frontier; they reciprocally agree to bear such expenses themselves. cada uno de respectivos te

“ Article XVI.

“The present Treaty shall be ratified, and the ratifications shall be exchanged at Monte Video as soon as possible.

“It shall come into operation ten days after its publication, in conformity with the laws of the respective countries, and each of the Contracting Parties may at any time terminate the Treaty on giving to the other six months’ notice of its intention to do so.

“In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

“Done at Monte Video, the twenty-sixth day of March in the year of Our Lord one thousand eight hundred and eighty-four.

“ (L.S.) *Edmund Monson.*

“ (L.S.) *Manl. Herrá. y Obes.*”

“ A

“El presente cado, y las r arán en Mo como sea posi

“Empezar pue de verit con arreglo Estados respe las Partes Oc cualquier tier nado, partici intencion de meses de anti

“En fé de l Plenipotencia sellado con el

“Hecho en veinte y seis del año mil o cuatro.

“ (L.S.)

“ (L.S.)

And whereas the ratifications of the exchanged at Monte Video on the thirteenth one thousand eight hundred and eighty-four;

Now, therefore, Her Majesty, by and v Her Privy Council, and in virtue of the auth Her by the said recited Acts, doth order, ordered, that from and after the twentieth thousand eight hundred and eighty-five, th apply in the case of Uruguay, and of the sa Oriental Republic of the Uruguay :

Provided always, and it is hereby further operation of the said Acts shall be suspended w of Canada so far as relates to the Orient Uruguay and to the said treaty, and so long the Canadian Acts * aforesaid continue in for

* 40 Vict. c. 25; 45 Vict. c. 20; now repealed and Extradition Act” (Revised Statutes of Canada, c. 142).

At the Court at Windsor, the 24th day of November, 1891.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.
Earl of Limerick.
Lord Walter Gordon Lennox.

Sir James Fergusson, Bart.
Mr. A. J. Balfour.
Sir Charles Pearson.

Whereas * * * [*Here follows the first recital to the Order relating to the Argentine Republic, printed at p. 1 above.*]

And whereas a treaty was concluded on the twenty-sixth day of March, one thousand eight hundred and eighty-four,* between Her Majesty and the President of the Oriental Republic of the Uruguay for the mutual extradition of fugitive criminals :

And whereas by an Order of Her Majesty the Queen in Council, dated the fifth day of March, one thousand eight hundred and eighty-five,* it was directed that the Extradition Acts, 1870 and 1873,† should apply in the case of the Oriental Republic of the Uruguay :

And whereas * * * [*Here follow the second and third recitals to the Order relating to the Argentine Republic, printed at p. 1 above.*]

And whereas a Protocol was concluded on the twentieth day of March, one thousand eight hundred and ninety-one, between Her Majesty and the President of the Oriental Republic of the Uruguay providing for the extension of the period stipulated in Article IX. of the above-mentioned treaty of the twenty-sixth day of March, one thousand eight hundred and eighty-four, which Protocol is in the terms following :—

“MONTE VIDEO, the twentieth day of March, one thousand eight hundred and ninety-one, their Excellencies Mr. Ernest Mason Satow, Companion of the Most Distinguished Order of St. Michael and St. George, Her Britannic Majesty's Minister Resident and Consul-General, and Dr. Manuel Herrero y Espinosa, Minister for Foreign Affairs, having met together at the Ministry for Foreign Affairs with the object of providing for the extension of the period stipulated in Article IX. of the Treaty for the Extradition of Criminals, in force between their respective countries, for the provisional arrest of persons charged

“EN MONTE VIDEO, á los veinte dias del mes de Marzo del año de 1891, reunidos en el Ministerio de Relaciones Exteriores, suas Excelencias el Señor Don Ernesto Satow, Miembro de la muy Distinguida Orden de San Miguel and San Jorge, Ministro Residente y Consul-General de Su Magestad Británica en la República, y el Señor Doctor Don Manuel Herrero y Espinosa, Ministro del Reino, con el objecto de establecer la ampliación del término fijado en el Artículo IX del Tratado de Extradición de Criminales vigente entre ambos países para la detención preventiva de las personas perseguidas por alguno de

* Printed at p. 277 above.

† 33 & 34 Vict. c. 52; 36 & 37 Vict. c. 60.

with any of the crimes or offences specified in the said Treaty, and having exchanged their full powers, which were found to be in good and due form, have agreed to the following Declaration, which shall be considered an integral part of the said international compact:

"The period of thirty days fixed by Article IX. of the Treaty for the Extradition of Criminals in force between the Oriental Republic of the Uruguay and Great Britain, for the provisional arrest of persons charged with any of the crimes or offences specified in the said Treaty, being thoroughly recognized as insufficient, both Governments agree that the said period shall henceforth be fixed at sixty days.

"In witness whereof the said Plenipotentiaries have caused the present Protocol to be drawn up in duplicate, and have signed both copies, and thereto affixed their seals on the date above expressed.

"(L.S.) *Ernest Mason Satow.*

"(L.S.) *Manuel Herrero y Espinosa.*"

los crímenes ó de en dicho Tratado, geados sus plenos ron hallados en farma, convinieron guiente Declaració dererá parte integ pacto internaciona

"Siendo notoriente el término establecido el Artículo de Extradición vigente entre la República Oriental para la detención de personas perseguidas por los crímenes ó de en el referido Tratado, conviene que el plazo quede desde ahora sesenta días.

"En fé de lo cual los Plenipotenciarios han suscrito el presente Protocolo en dos ejemplares, cuyos ejemplares han con sus sellos espresada.

"(L.S.) *Ernest Mason Satow.*

"(L.S.) *Manuel Herrero y Espinosa.*"

And whereas the ratifications of the said Protocol were exchanged at Monte Video on the seventeenth day of August, one thousand eight hundred and ninety-one.

Now, therefore, Her Majesty, by and with the advice and consent of the Privy Council, and in virtue of the authority conferred by the said recited Acts, doth order, and it is hereby enacted, that from and after the seventh day of December, one thousand eight hundred and ninety-one, the said Acts shall have effect in the case of the said Protocol of the twentieth day of December, one thousand eight hundred and ninety-one, as full and purposes as in the case of the said recited treaty of the sixth day of March, one thousand eight hundred and ninety-one.

Provided always, and it is hereby further ordered, that the operation of the said Extradition Acts, 1870 and 1875, shall be suspended within the Dominion of Canada so far as they relate to the Oriental Republic of the Uruguay and to the said Protocol, and so long as the provisions of the Canadian Extradition Act of 1886 † continue in force, and no longer.

* 33 & 34 Vict. c. 52; 36 & 37 Vict. c. 60.

† "The Extradition Act" (Revised Statutes of Canada).

II. Surrender of Fugitive Criminals of Foreign States in British Possessions.*

-(i.) Suspension of Act during the subsistence of Colonial Law.

ORDER IN COUNCIL SUSPENDING THE OPERATION OF THE EXTRADITION ACTS IN CANADA DURING THE SUBSISTENCE OF A CANADIAN ACT OF 1886.

At the Court at Windsor, the 17th day of November, 1888.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.
Marquess of Lothian.

Sir Henry Ponsonby.
Mr. Robertson.

Whereas by the Extradition Acts, 1870† and 1873,‡ it was amongst other things enacted that if, by any law made after the passing of the Act of 1870 by the Legislature of any British possession, provision is made for carrying into effect within such possession the surrender of fugitive criminals who are in or suspected of being in such British possession, Her Majesty may, by the Order in Council applying the said Acts in the case of any foreign State, or by any subsequent Order, suspend the operation within any such British possession of the said Acts, or of any part thereof, so far as it relates to such foreign State, and so long as such Law continues in force there and no longer :

And whereas by an Act of the Parliament of Canada passed in 1886, and entitled An Act respecting the Extradition of Fugitive Criminals,§ provision is made for carrying into effect within the Dominion the surrender of fugitive criminals :

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and in virtue of the authority committed to Her by the said recited Acts, doth order, and it is hereby ordered, that the operation of the Extradition Acts, 1870† and 1873,‡ shall be suspended within the Dominion of Canada so long as the provisions of the said Act of the Parliament of Canada of 1886, entitled An Act respecting the Extradition of Fugitive Criminals, shall continue in force and no longer.

C. L. Peel.

* The Order in Council of August 19, 1889, providing for the Surrender of Persons by the Governor of the Straits Settlements to Foreign States in cases where the Extradition Act, 1870, does not apply, is, as amended in 1901, printed under the title "Straits Settlements."

† 33 & 34 Vict. c. 52.

‡ 36 & 37 Vict. c. 60.

§ "The Extradition Act" (Revised Statutes of Canada, c. 142).

(ii.) Incorporation of Colonial Ordinances.**(a) Bahamas.**

ORDER IN COUNCIL DIRECTING THAT "THE EXTRADITION ACT, BAHAMAS, 1877," SHALL HAVE EFFECT IN BAHAMAS AS IF IT WERE PART OF THE IMPERIAL ACT.

At the Court at Osborne House, Isle of Wight, the 13th day of August, 1877.

PRESENT:

The Queen's Most Excellent Majesty.

Lord President.
Lord Chamberlain.
Earl of Coventry.

Mr. Secretary Cross.
Mr. Sclater-Booth.
Mr. W. H. Smith.

Whereas by Section 18 of the Extradition Act, 1870,* it is among other things enacted, That if by any law made after the passing of the said Act by the Legislature of any British Possession, provision is made for carrying into effect within such Possession the Surrender of Fugitive Criminals who are in, or suspected of being in, such British Possession, Her Majesty may, by the Order in Council applying the said Act in the case of any Foreign State or by any subsequent Order, either—

Suspend the operation within any such British Possession of the said Act, or of any part thereof, so far as it relates to such Foreign State, and so long as such law continues in force there and no longer;—

Or direct that such law or ordinance or any part thereof shall have effect in such British Possession, with or without modifications and alterations, as if it were part of the Act:

And whereas by the Act 40 Vict. cap. 17, enacted by the Legislature of the Bahamas, the short title of which is, The Extradition Act, Bahamas, 1877, it is provided that "all powers vested in and acts authorized or required to be done by a Police Magistrate or any Justice of the Peace in relation to the Surrender of Fugitive Criminals in the United Kingdom under the Extradition Acts, 1870 * and 1873,† are thereby vested in and may in the Colony be exercised and done by any Police Magistrate in relation to the Surrender of Fugitive Criminals under the said Acts":

And whereas it is further provided by the said Act that the said Act shall not come into operation until Her Majesty shall by Order in Council direct that the said Act shall have effect within the Colony as if it were part of the Extradition Act, 1870,* but that the said Act shall thereafter come into operation as soon as

* 33 & 34 Vict. c. 52.

† 36 & 37 Vict. c. 60.

such Order in Council shall have been publicly made known in the Colony.

Now, therefore, Her Majesty, in pursuance of the Extradition Act, 1870,* and in exercise of the power in that behalf in the said Act contained, doth by this present Order, by and with the advice of Her Majesty's Privy Council, direct that the said Act shall have effect in the Colony of the Bahamas without modification or alteration, as if it were part of the Extradition Act, 1870.*

And the Right Honourable the Earl of Carnarvon, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

(b) Barbados.

ORDER IN COUNCIL DIRECTING THAT "THE EXTRADITION ACT OF BARBADOS, 1878," SHALL HAVE EFFECT IN BARBADOS AS IF IT WERE PART OF THE IMPERIAL ACT.

At the Court at Windsor, the 27th day of November, 1878.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.

Lord Privy Seal.

Mr. Secretary Cross.

Whereas * * * [*Here follows the first recital to the Order relating to Bahamas, printed at p. 291 above.*]

And whereas by an Act enacted by the Legislature of Barbadoes, the short title of which is the Extradition Act of Barbadoes, 1878,† it is provided that "all powers vested in and acts authorised or "required to be done by a Police Magistrate or any Justice of the "Peace in relation to the Surrender of Fugitive Criminals in the "United Kingdom under the Extradition Acts, 1870 * and 1873,‡ "are thereby vested in and may in the Island be exercised and done "by any Resident Police Magistrate in relation to the Surrender "of Fugitive Criminals under the said Acts" :

And whereas it is further provided by the said Act that the said Act shall not come into operation until Her Majesty shall by Order in Council direct that the said Act shall have effect within the Island as if it were part of the Extradition Act, 1870,* but that the said Act shall thereafter come into operation as soon as such Order in Council shall have been publicly made known in the Island :

* 33 & 34 Vict. c. 52.

† 36 & 37 Vict. c. 60.

‡ 40 & 41 Vict. c. 27.

Extradition :—Bermuda Act of 187

Now, therefore, Her Majesty, in pursuance of Act, 1870,* and in exercise of the power in that Act contained, doth by this present Order, by and of Her Majesty's Privy Council, direct that the have effect in the Island of Barbadoes, without alteration, as if it were part of the Extradition Act

And the Right Honourable Sir Michael Edwa Baronet, one of Her Majesty's Principal Secreta to give the necessary directions herein accordingl

(c) **Bermuda.**

ORDER IN COUNCIL DIRECTING THAT "THE EX BERMUDA, 1877," SHALL HAVE EFFECT IN BE WERE PART OF THE IMPERIAL ACT.

At the Court at Osborne House, Isle of Wight,
February, 1879.

PRESENT :

The Queen's Most Excellent Majesty.

His Royal Highness Prince Leopold.

Lord President.

Marquis of Salisbury.

Whereas * * * [*Here follows the first recital relating to Bahamas, printed at p. 291 above.*]

And whereas by an Act enacted by the Legislature the short title of which is The Extradition Act, B it is provided that "all powers vested in and acts "required to be done by a Police Magistrate or any "Peace in relation to the Surrender of Fugitive C "United Kingdom under The Extradition Acts, 187 "are thereby vested in and may in the Colony be "done by any Police Magistrate in relation to th "Fugitive Criminals under the said Acts":

And whereas it is further provided by the said Act shall not come into operation until He by Order in Council direct that the said Act sh within the Colony, as if it were part of the Extradit but that the said Act shall thereafter come into op as such Order in Council shall have been publicly the Colony:

* 33 & 34 Vict. c. 52.

† 36 & 37 Vict. c. 60.

† No. 398; 1877

Now, therefore, Her Majesty, in pursuance of The Extradition Act, 1870,* and in exercise of the power in that behalf in the said Act contained, doth by this present Order, by and with the advice of Her Majesty's Privy Council, direct that the said Extradition Act, Bermuda, 1877,† shall have effect in the Colony of Bermuda, without modification or alteration, as if it were part of The Extradition Act, 1870.*

And the Right Honourable Sir Michael Edward Hicks-Beach, Bart., one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

(d) British Guiana.

ORDER IN COUNCIL DIRECTING THAT AN ORDINANCE OF THE LEGISLATURE OF BRITISH GUIANA OF AUGUST 3, 1886, SHALL HAVE EFFECT IN BRITISH GUIANA AS IF IT WERE PART OF THE IMPERIAL ACT.

At the Court at Balmoral, the 24th day of September, 1886.

PRESENT :

The Queen's Most Excellent Majesty in Council.

Whereas * * * [*Here follows the first recital to the Order relating to Bahamas, printed at p. 291 above.*]

And whereas on the 3rd day of August 1886 an Ordinance was enacted by the Legislature of British Guiana whereby provision is made with regard to the Extradition of Fugitive Criminals from French Guiana.‡

And whereas it is provided by the said Ordinance that the said Ordinance shall come into operation and take effect only after Her Majesty shall by Order in Council direct that the said Ordinance shall have effect within the Colony, and after such Order in Council shall have been published in the Official "Gazette."

Now, therefore, Her Majesty, in pursuance of The Extradition Act, 1870,* and in exercise of the power in that behalf in the said Act contained, doth by this present Order, by and with the advice of Her Majesty's Privy Council, direct that the said Ordinance shall have effect in the Colony of British Guiana without modification or alteration, as if it were part of The Extradition Act, 1870.*

And the Right Honourable Edward Stanhope, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

* 33 & 34 Vict. c. 52.

‡ No. 8 of 1886.

† No. 388; 1877, No. 5.

Extradition :—British-Guiana Ordinance

ORDER IN COUNCIL DIRECTING THAT "THE EXTRADITION ACT (BRITISH GUIANA), 1897," SHALL HAVE EFFECT IN BRITISH GUIANA AS IF IT WERE PART OF THE IMPERIAL ACTS

1897. No. 574.

At the Court at Windsor, the 7th day of May 1897.

PRESENT :

The Queen's Most Excellent Majesty
His Royal Highness the Duke of Connaught and Stratford

Lord President.
Earl of Kintore.

Earl of Eglinton
Mr. Secretary of State

Whereas * * * [*Here follows the first section of the Extradition Act (British Guiana), 1897, printed at p. 291 above.*]

And whereas by an Ordinance enacted by the Legislative Council of British Guiana, the short title of which is "The Extradition Ordinance (British Guiana), 1897,"* it is provided that no magistrate or any justice of the peace in relation to fugitive criminals in the United Kingdom or Colonies shall exercise the powers conferred by the Extradition Acts, 1870† and 1873,† are "thereby" in the Colony, be exercised and done by any person in relation to the surrender of fugitive criminals "in accordance with the provisions of the said Acts":

And whereas it is further provided by the said Ordinance that the said Ordinance shall not come into operation until it shall, by Order in Council, direct that the said Ordinance shall have effect within the Colony as if it were part of the Imperial Acts, 1870," but that the said Ordinance shall be brought into operation as soon as such Order in Council shall have been publicly made known in the Colony:

Now, therefore, Her Majesty, in pursuance of the powers conferred by the said Act, 1870," and in exercise of the powers conferred by the said Act contained, doth by this present Order in Council, on the advice of Her Majesty's Privy Council, direct that the said Ordinance shall have effect in the Colony of British Guiana as if it were part of the Imperial Acts, 1870."

And the Right Honourable Joseph Chamberlain, Her Majesty's Principal Secretary of State, is directed to give effect to the directions herein accordingly.

* No. 8 of 1897.

† 33 & 34 Vict. c. 52.

(c) **British Honduras.**

ORDER IN COUNCIL DIRECTING THAT "THE EXTRADITION ORDINANCE (BRITISH HONDURAS), 1877," SHALL HAVE EFFECT IN BRITISH HONDURAS AS IF IT WERE PART OF THE IMPERIAL ACT.

At the Court at Windsor, the 22nd day of February, 1878.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.
Lord Chamberlain.
Earl of Beaconsfield.

Mr. Secretary Cross.
Colonel Taylor.
Mr. Lowther.

Whereas * * * [*Here follows the first recital to the Order relating to Bahamas, printed at p. 291 above.*]

And whereas by an Ordinance enacted by the Legislature of British Honduras, the short title of which is The Extradition Ordinance (British Honduras), 1877,* it is provided that "all powers vested in and acts authorised or required to be done by a Police Magistrate or any Justice of the Peace in relation to the Surrender of Fugitive Criminals in the United Kingdom under The Extradition Acts, 1870† and 1873,‡ are thereby vested in and may in the Colony be exercised and done by any Police Magistrate or Acting Police Magistrate for the time being of the Colony in relation to the Surrender of Fugitive Criminals under the said Acts":

And whereas it is further provided by the said Ordinance that the powers vested in any Judge of one of Her Majesty's Superior Courts at Westminster relative to the discharge of any Fugitive Criminal when not conveyed out of the United Kingdom within two months after his committal under The Extradition Acts, 1870† and 1873,‡ are thereby vested in and may in the Colony be exercised only by the Chief Justice or the Acting Chief Justice for the time belong of the Colony:

And whereas it is further provided by the said Ordinance that the said Ordinance shall not come into operation until Her Majesty shall by Order in Council direct that the said Ordinance shall have effect within the Colony as if it were part of the Extradition Act, 1870,† but that the said Ordinance shall thereafter come into operation as soon as such Order in Council shall have been publicly made known in the Colony:

Now, therefore, Her Majesty, in pursuance of The Extradition Act, 1870,† and in exercise of the power in that behalf in the said Act contained, doth by this present Order, by and with the advice of Her Majesty's Privy Council, direct that the said Ordinance shall have effect in the Colony of British Honduras, without modi-

* No. 7 of 1877, now repealed and re-enacted as c. 47 of the Consolidated Laws of British Honduras.

† 33 & 34 Vict. c. 52.

‡ 36 & 37 Vict. c. 60.

Extradition :—British India Act of 189

fication or alteration, as if it were part of The
1870.*

And the Right Honourable Sir Michael Edwards Bart., one of Her Majesty's Principal Secretaries of State, give the necessary directions herein accordingly.

(f) British India.

ORDER IN COUNCIL DIRECTING THAT THE EXTRADITION ACT, 1895, SHALL HAVE EFFECT IN BRITISH INDIA IN PART OF THE EXTRADITION ACTS, 1870 to 18

1895. No. 568.

At the Court at Windsor, the 21st day of Nov

PRESENT :

The Queen's Most Excellent Majes

Lord President.

Lord Privy Seal.

Marquess of Lansdowne.

Whereas by section 18 of the Extradition Act, 1850, and other things enacted, that, if by any law made of the said Act by the Legislature of any British possession is made for carrying into effect within the surrender of fugitive criminals who are in being in, such British possession, Her Majesty in Council applying the said Act in the case of, or by any subsequent Order, direct that such thereof shall have effect in such British possession modifications and alterations, as if it were part of

And whereas by an Act of the Governor-General in Council entitled "The Extradition (India) Act, 1870" provided that "all powers vested in, and acts authorized to be done by, a Police Magistrate or any Justice of the Peace in relation to the surrender of fugitive criminals from any Kingdom under the Extradition Acts, 1870* and 1872* are vested in, and may in British India be exercised by any Presidency Magistrate, or District Magistrate, or to the surrender of fugitive criminals under the

And whereas it is further provided by the (India) Act, 1895, that the said Act shall come into force as the Governor-General in Council shall in the "Gazette of India," appoint in this behalf

* 33 & 34 Viet. c. 52.

† No. IX. of 1895.

†

no such date shall be appointed until Her Majesty shall have been pleased by Order in Council to direct that the said Act shall have effect in British India as if it were part of the Extradition Act, 1870,* and such Order shall have been published in the "Gazette of India":

Now, therefore, Her Majesty, in pursuance of the Extradition Acts, 1870 * and 1873,† and in exercise of the power in that behalf in the said Acts contained, doth by this present Order, by and with the advice of Her Majesty's Privy Council, direct that the said Extradition (India) Act, 1895, shall have effect in British India without modification or alteration, as if it were part of the Extradition Acts, 1870 * and 1873.†

And the Right Honourable Lord George Hamilton, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

(g) Cape of Good Hope.

ORDER IN COUNCIL DIRECTING THAT "THE EXTRADITION ACT, CAPE OF GOOD HOPE, 1877," SHALL HAVE EFFECT IN THE CAPE OF GOOD HOPE AS IF IT WERE PART OF THE IMPERIAL ACT.

At the Court at Osborne House, Isle of Wight, the 15th day of January, 1878.

PRESENT:

The Queen's Most Excellent Majesty.

His Royal Highness the Duke of Connaught and Strathearn.

Lord President.

Lord John Manners.

Mr. Secretary Cross.

Whereas * * * [*Here follows the first recital to the Order relating to Bahamas, printed at p. 291 above.*]

And whereas by an Act enacted by the Legislature of the Cape of Good Hope, the short title of which is the Extradition Act, Cape of Good Hope, 1877,‡ it is provided that "all powers vested in and acts authorised or required to be done by a Police Magistrate or any Justice of the Peace in relation to the Surrender of Fugitive Criminals in the United Kingdom under the Extradition Acts, 1870 * and 1873,† are thereby vested in and may in the Colony be exercised and done by any Resident Magistrate in relation to the Surrender of Fugitive Criminals under the said Acts":

* 33 & 34 Vict. c. 52.

† 36 & 37 Vict. c. 60.

‡ No. 17 of 1877.

Extradition :—Griqualand West Ordinance of

And whereas it is further provided by the said said Act shall not come into operation until Her by Order in Council direct that the said Act shall have the Colony as if it were part of the Extradition Act that the said Act shall thereafter come into operation such Order in Council shall have been publicly made in the Colony.

Now, therefore, Her Majesty, in pursuance of the said Act, 1870,* and in exercise of the power in that said Act contained, doth by this present Order, by advice of Her Majesty's Privy Council, direct that the said Act shall have effect in the Colony of the Cape of Good Hope with such modification or alteration, as if it were part of the said Act, 1870.*

And the Right Honourable the Earl of Carnarvon, Her Majesty's Principal Secretaries of State, is to give directions herein accordingly.

ORDER IN COUNCIL DIRECTING THAT "THE EXTRADITION ACT, 1870," SHALL HAVE EFFECT IN THE COLONY OF GRIQUALAND WEST, 1879,† AS IF IT WERE PART OF THE IMPERIAL ACT, 1870,‡

At the Court at Windsor, the 26th day of June 1879.

PRESENT :

The Queen's Most Excellent Majesty

His Royal Highness Prince Leopold

Lord President.

Lord Privy Seal.

Sir Michael E. Hicks-Beach, Bart.

Whereas * * * [*Here follows the first recital relating to Bahamas, printed at p. 291 above.*]

And whereas by an Ordinance enacted by the Griqualand West,† the short title of which is the Ordinance, Griqualand West, 1879,‡ it is provided that the powers which are now vested in and acts authorised or required to be done by the Magistrate or any Justice of the Peace in relation to the apprehension and detention of Fugitive Criminals in the United Kingdom under the provisions of the Extradition Acts, 1870 * and 1873, § are thereby vested in the Magistrate or any Justice of the Peace in the Province of the Cape of Good Hope to be exercised and done by any Resident Magistrate or any Justice of the Peace in the Province in relation to the Surrender of Fugitive Criminals under the said Acts :

* 33 & 34 Vict. c. 52.

† Griqualand West was incorporated with the Colony of the Cape of Good Hope on October 15, 1880.

‡ No. 1 of 1879.

§ 36 & 37 Vict. c.

And whereas it is further provided by the said Ordinance that the said Ordinance shall not come into operation until Her Majesty shall by Order in Council direct that the said Ordinance shall have effect within the Province as if it were part of the Extradition Act, 1870,* but that the said Ordinance shall thereafter come into operation as soon as such Order in Council shall have been publicly made known in the Province :

Now, therefore, Her Majesty, in pursuance of the Extradition Act, 1870,* and in exercise of the power in that behalf in the said Act contained, doth by this present Order, by and with the advice of Her Majesty's Privy Council, direct that the said Ordinance shall have effect in the Province of Griqualand West without modification or alteration, as if it were part of The Extradition Act, 1870.*

And the Right Honourable Sir Michael Edward Hicks-Beach, Bart., one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

(h) Ceylon.

ORDER IN COUNCIL DIRECTING THAT "THE EXTRADITION ORDINANCE (CEYLON), 1877," SHALL HAVE EFFECT IN CEYLON AS IF IT WERE PART OF THE IMPERIAL ACT.

At the Court at Osborne House, Isle of Wight, the 4th day of February, 1878.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.

Lord Privy Seal.

Sir Michael Edward Hicks-Beach, Bart.

Sir Thomas Myddelton-Biddulph.

Whereas * * * [*Here follows the first recital to the Order relating to Bahamas, printed at p. 291 above.*]

And whereas by an Ordinance enacted by the Legislature of Ceylon the short title of which is the Extradition Ordinance, 1877,† it is provided that "all powers vested in and acts authorised "or required to be done by a Police Magistrate or any Justice of "the Peace in relation to the Surrender of Fugitive Criminals in "the United Kingdom under The Extradition Acts, 1870 * and "1873,‡ are thereby vested in and may in the Colony be exercised

* 33 & 34 Vict. c. 52.

‡ 36 & 37 Vict. c. 60.

† No. 10 of 1877.

Extradition :—Gibraltar Ordinance of 1877

“and done by any Police Magistrate in relation to
“of Fugitive Criminals under the said Acts”:

And whereas it is further provided by the said
the said Ordinance shall not come into operation un-
shall, by Order in Council, direct that the said
have effect within the Colony as if it were part of
Act, 1870,* but that the said Ordinance shall
into operation as soon as such Order in Council
publicly made known in the Colony.

Now, therefore, Her Majesty, in pursuance of
Act, 1870,* and in exercise of the power in the
said Act contained, doth by this present Order, b
advice of Her Majesty's Privy Council, direct that the
shall have effect in the Colony of Ceylon witho
or alteration, as if it were part of The Extradition

And the Right Honourable Sir Michael Edwar
one of Her Majesty's Principal Secretaries of Stat
necessary directions herein accordingly.

(i) Gibraltar.

ORDER IN COUNCIL DIRECTING THAT “THE EXTRADIT
GIBRALTAR, 1877,” SHALL HAVE EFFECT IN G
IT WERE PART OF THE IMPERIAL ACT.

At the Court at Windsor, the 11th day of Ju

PRESENT :

The Queen's Most Excellent Majesty

Lord President.

Lord Chamberlain.

Mr. Secretary Cross.

Whereas * * * [*Here follows the first recit
relating to Bahamas, printed at p. 291 above.*]

And whereas by an Ordinance numbered 2 o
by the Legislature of Gibraltar, the short title
Extradition Ordinance, Gibraltar, 1877, it is,
things, provided that “all powers vested in and
“or required to be done by a Police Magistrate
“of the Peace in relation to the Surrender of Fu
“in the United Kingdom under The Extraditio
“and 1873,† are thereby vested in and may ir
“exercised and done by any Police Magistrate in
“Surrender of Fugitive Criminals under the said

* 33 & 34 Vict. c. 52.

† 36 & 37 Vi

And whereas it is further provided by the said Ordinance that the said Ordinance shall not come into operation until Her Majesty shall by Order in Council direct that the said Ordinance shall have effect within the Colony as if it were part of the Extradition Act, 1870,* but that the said Ordinance shall thereafter come into operation as soon as such Order in Council shall have been publicly made known in the Colony :

Now, therefore, Her Majesty, in pursuance of The Extradition Act, 1870,* and in exercise of the power in that behalf in the said Act contained, doth by this present Order, by and with the advice of Her Majesty's Privy Council, direct that the said Ordinance shall have effect in the Colony of Gibraltar without modification or alteration, as if it were part of The Extradition Act, 1870.*

And the Right Honourable the Earl of Carnarvon, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

(j) Gold Coast.

ORDER IN COUNCIL DIRECTING THAT "THE EXTRADITION ORDINANCE, GOLD COAST COLONY, 1877," SHALL HAVE EFFECT IN GOLD COAST AS IF IT WERE PART OF THE IMPERIAL ACT.

At the Court at Balmoral, the 23rd day of November, 1877.

PRESENT :

The Queen's Most Excellent Majesty.

His Royal Highness Prince Leopold.

Lord President.

Mr. Chancellor of the Exchequer.

Whereas * * * [*Here follows the first recital to the Order relating to Bahamas, printed at p. 291 above.*]

And whereas by an Ordinance, numbered 6 of 1877, enacted by the Legislature of the Gold Coast Colony, the short title of which is the Extradition Ordinance, Gold Coast Colony, 1877, it is provided that "all powers vested in and acts authorised or required to be done by a Police Magistrate or any Justice of the Peace in relation to the Surrender of Fugitive Criminals in the United Kingdom under The Extradition Acts, 1870 * and 1873,† are thereby vested in and may in the Colony be exercised and done by any District Commissioner in relation to the Surrender of Fugitive Criminals under the said Acts."

* 33 & 34 Vict. c. 52.

† 36 & 37 Vict. c. 60.

And whereas it is further provided by the said Ordinance that the said Ordinance shall not come into operation until Her Majesty shall by Order in Council direct that the said Ordinance shall have effect within the Colony as if it were part of The Extradition Act, 1870,* but that the said Ordinance shall thereafter come into operation as soon as such Order in Council shall have been publicly made known in the Colony.

Now, therefore, Her Majesty, in pursuance of The Extradition Act, 1870,* and in exercise of the power in that behalf in the said Act contained, doth by this present Order, by and with the advice of Her Majesty's Privy Council, direct that the said Ordinance shall have effect in the Colony of the Gold Coast without modification or alteration, as if it were part of The Extradition Act, 1870.*

And the Right Honourable the Earl of Carnarvon, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

(h) Grenada.

ORDER IN COUNCIL DIRECTING THAT "THE EXTRADITION ORDINANCE, GRENADA, 1880," SHALL HAVE EFFECT IN GRENADA AS IF IT WERE PART OF THE IMPERIAL ACT.

At the Court at Windsor, the 18th day of March, 1880.

PRESENT :

The Queen's Most Excellent Majesty.

His Royal Highness Prince Leopold.

Lord Chancellor.
Lord President.

Lord Steward.
Earl of Beaconsfield.

Whereas * * * [*Here follows the first recital to the Order relating to Bahamas, printed at p. 291 above.*]

And whereas by an Ordinance enacted by the Legislature of Grenada the short title of which is the Extradition Ordinance, Grenada, 1880,† it is provided that "all powers vested in and acts "authorised or required to be done by a Police Magistrate or any "Justice of the Peace in relation to the Surrender of Fugitive "Criminals in the United Kingdom under The Extradition Acts, "1870 * and 1873,‡ are thereby vested in and may in the Colony "be exercised and done by any Police Magistrate in relation to "the Surrender of Fugitive Criminals under the said Acts":

And whereas it is further provided by the said Ordinance that

* 33 & 34 Vict. c. 52.

† No. 3 of 1880.

‡ 36 & 37 Vict. c. 60.

the said Ordinance shall not come into operation until Her Majesty shall by Order in Council direct that the said Ordinance shall have effect within the Colony as if it were part of The Extradition Act, 1870,* but that the said Ordinance shall thereafter come into operation as soon as such Order in Council shall have been publicly made known in the Colony :

Now, therefore, Her Majesty, in pursuance of The Extradition Act, 1870,* and in exercise of the power in that behalf in the said Act contained, doth by this present Order, and by and with the advice of Her Majesty's Privy Council, direct that the said Ordinance, shall have effect in the Colony of Grenada without modification or alteration, as if it were part of The Extradition Act, 1870.*

And the Right Honourable Sir Michael Edward Hicks-Beach, Bart., one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

(I) Hong Kong.

ORDER IN COUNCIL DIRECTING THAT "THE EXTRADITION ORDINANCE (HONG KONG), 1875," SHALL HAVE EFFECT IN HONG KONG AS IF IT WERE PART OF THE IMPERIAL ACT.

At the Court at Windsor, the 20th day of March, 1877.

PRESENT :

The Queen's Most Excellent Majesty in Council.

Whereas * * * [*Here follows the first recital to the Order relating to Bahamas, printed at p. 291 above.*]

And whereas by a certain Ordinance enacted in the year 1875 by the Governor of Hong Kong, with the advice of the Legislative Council thereof, and numbered 11 of the said year, the short title of which is The Extradition Ordinance (Hong Kong), 1875, provision is made that all powers vested in, or acts authorised or required to be done, under the Acts of the Imperial Parliament known as The Extradition Acts, 1870 * and 1873,† by the Secretary of State or by the Police Magistrate, in relation to the surrender of a fugitive criminal, which by the said Imperial Acts are in respect of British possessions vested in or required to be done by the Governor alone, may, in respect of the Colony of Hong Kong, be exercised and done by the Governor or the Police Magistrate of the Colony respectively :

And whereas the said Ordinance has been confirmed and allowed by Her Majesty :

Now, therefore, Her Majesty, in pursuance of The Extradition

* 33 & 34 Vict. c. 52.

† 36 & 37 Vict. c. 60.

Extradition :—Jamaica Act o

Act, 1870,* and in exercise of the power i
said Act contained, doth by this present Or
advice of Her Majesty's Privy Council, direct
dition Ordinance (Hong Kong), 1875,† sha
Colony of Hong Kong, without modification
it were part of The Extradition Act, 1870.

And the Right Honourable the Earl of C
Majesty's Principal Secretaries of State, is t
directions herein accordingly.

(m) Jamaica.

ORDER IN COUNCIL DIRECTING THAT "THE
JAMAICA, 1877," SHALL HAVE EFFECT IN J.
PART OF THE IMPERIAL ACT.

At the Court at Balmoral, the 23rd day of

PRESENT :

The Queen's Most Excellent Ma

His Royal Highness Prince Le

Lord President.

Mr. Chancellor of the Exche

Whereas * * * [*Here follows the first 1
relating to Bahamas, printed at p. 291 above.*

And whereas by a Law enacted by the Le
the short title of which is The Extradition
it is provided that "all powers vested in an
" required to be done by a Police Magistrat
" the Peace in relation to the Surrender of F
" the United Kingdom under The Extraditic
" 1873,§ are thereby vested in and may in the
" and done by any Police or Stipendiary M
" to the Surrender of Fugitive Criminals under

And whereas it is further provided by the
said Law shall not come into operation unti
by Order in Council direct that the said La
within the Colony as if it were part of The Ext
but that the said Law shall thereafter com
soon as such Order in Council shall have been f
in the Colony.

Now, therefore, Her Majesty, in pursuance
Act, 1870,* and in exercise of the power in the

* 33 & 34 Vict. c. 52.

† Law 7 of 1877.

† No. 11

§ 36 & 3

Act contained, doth by this present Order, by and with the advice of Her Majesty's Privy Council, direct that the said Law shall have effect in the Colony of Jamaica without modification or alteration, as if it were part of The Extradition Act, 1870.

And the Right Honourable the Earl of Carnarvon, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

(n) Leeward Islands.

ORDER IN COUNCIL DIRECTING THAT "THE LEEWARD ISLANDS EXTRADITION ACT, 1877," SHALL HAVE EFFECT IN THE LEEWARD ISLANDS AS IF IT WERE PART OF THE IMPERIAL ACT.

At the Court at Windsor, the 26th day of March, 1878.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.	Lord Chamberlain.
Lord Privy Seal.	Earl of Derby.
Duke of Devonshire.	Mr. Watson.

Whereas * * * [*Here follows the first recital to the Order relating to Bahamas, printed at p. 291 above.*]

And whereas by an Act enacted by the Legislature of the Leeward Islands, the short title of which is The Leeward Islands Extradition Act, 1877,* it is provided that "all powers vested in and acts "authorised or required to be done by a Police Magistrate or any "Justice of the Peace in relation to the Surrender of Fugitive "Criminals in the United Kingdom under the Extradition Acts, "1870 † and 1873, ‡ are thereby vested in and may in the Colony "be exercised and done by any Resident Magistrate in relation "to the Surrender of Fugitive Criminals under the said Acts ":

And whereas it is further provided by the said Act that the said Act shall not come into operation until Her Majesty shall by Order in Council direct that the said Act shall have effect within the Colony as if it were part of the Extradition Act, 1870, † but that the said Act shall thereafter come into operation as soon as such Order in Council shall have been publicly made known in the Colony :

Now, therefore, Her Majesty, in pursuance of The Extradition Act, 1870, † and in exercise of the power in that behalf in the said Act contained, doth by this present Order, by and with the advice of Her Majesty's Privy Council, direct that the said Act shall have

* No. 10 of 1877.

† 33 & 34 Vict. c. 52.

‡ 36 & 37 Vict. c. 60.

effect in the Colony of the Leeward Islands, without modification or alteration, as if it were part of The Extradition Act, 1870.*

And the Right Honourable Sir Michael Edward Hicks-Beach, Baronet, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

(o) **Malta.**

ORDER IN COUNCIL DIRECTING THAT THE MALTESE ORDINANCE, No. IV., 1877, SHALL HAVE EFFECT IN MALTA AS IF IT WERE PART OF THE IMPERIAL ACT.

At the Court at Windsor, the 29th day of June, 1878.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.

Lord Steward.

Mr. Secretary Cross.

Whereas * * * [*Here follows the first recital to the Order relating to Bahamas, printed at p. 291 above.*]

And whereas by an Ordinance enacted by the Legislature of Malta, No. IV., 1877, it is provided that "all powers vested in "and acts authorised or required to be done by a Police Magistrate "or any Justice of the Peace in relation to the Surrender of Fugitive "Criminals in the United Kingdom under the Extradition Acts, "1870 * and 1873,† are thereby vested in and may in the Colony "be exercised and done by any Magistrate of Judicial Police "in relation to the Surrender of Fugitive Criminals under the said "Acts":

And whereas it is further provided by the said Ordinance that the said Ordinance shall not come into operation until Her Majesty shall, by Order in Council, direct that the said Ordinance shall have effect within the Colony as if it were part of the Extradition Act, 1870,* but that the said Ordinance shall thereafter come into operation as soon as such Order in Council shall have been publicly made known in the Colony.

Now, therefore, Her Majesty, in pursuance of The Extradition Act, 1870,* and in exercise of the power in that behalf in the said Act contained, doth by this present Order, by and with the advice of Her Majesty's Privy Council, direct that the said Ordinance shall have effect in the Colony of Malta without modification or alteration, as if it were part of The Extradition Act, 1870.*

And the Right Honourable Sir Michael Edward Hicks-Beach,

* 33 & 34 Vict. c. 52.

† 36 & 37 Vict. c. 60.

Bart., one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

(p) **Mauritius.**

ORDER IN COUNCIL DIRECTING THAT "THE EXTRADITION ACT, MAURITIUS, 1877," SHALL HAVE EFFECT IN MAURITIUS AS IF IT WERE PART OF THE IMPERIAL ACT.

At the Court at Windsor, the 11th day of July, 1877.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.

Lord Chamberlain.

Mr. Secretary Cross.

Whereas * * * [*Here follows the first recital to the Order relating to Bahamas, printed at p. 291 above.*]

And whereas by an Ordinance numbered 7 of 1877 enacted by the Legislature of Mauritius, the short title of which is The Extradition Act, Mauritius, 1877, it is provided that "all powers vested in and acts authorised or required to be done by a Police Magistrate or any Justice of the Peace in relation to the Surrender of Fugitive Criminals in the United Kingdom under the Extradition Acts, 1870* and 1873,† are thereby vested in and may in the Colony be exercised and done by any Police Magistrate in relation to the Surrender of Fugitive Criminals under the said Acts":

And whereas it is further provided by the said Ordinance that the said Ordinance shall not come into operation until Her Majesty shall by Order in Council direct that the said Ordinance shall have effect within the Colony as if it were part of the Extradition Act, 1870,* but that the said Ordinance shall thereafter come into operation as soon as such Order in Council shall have been publicly made known in the Colony.

Now, therefore, Her Majesty, in pursuance of The Extradition Act, 1870,* and in exercise of the power in that behalf in the said Act contained, doth by this present Order, by and with the advice of Her Majesty's Privy Council, direct that the said Ordinance shall have effect in the Colony of Mauritius without modification or alteration, as if it were part of The Extradition Act, 1870.*

And the Right Honourable the Earl of Carnarvon, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

* 33 & 34 Vict. c. 52.

† 36 & 37 Vict. c. 60.

(g) Natal

ORDER IN COUNCIL DIRECTING THAT "THE EXTRADITION LAW, NATAL, 1877," SHALL HAVE EFFECT IN NATAL AS IF IT WERE PART OF THE IMPERIAL ACT.

At the Court at Osborne House, Isle of Wight, the 4th day of February, 1878.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.

Lord Privy Seal.

Sir Michael Edward Hicks-Beach, Bart.

Sir Thomas Myddelton-Biddulph.

Whereas * * * [*Here follows the first recital to the Order relating to Bahamas, printed at p. 291 above.*]

And whereas by a Law enacted by the Legislature of Natal, the short title of which is The Extradition Law, Natal, 1877,* it is provided that "all powers vested in and acts authorised or "required to be done by a Police Magistrate or any Justice of "the Peace in relation to the Surrender of Fugitive Criminals "in the United Kingdom under the Extradition Acts, 1870 † "and 1873, ‡ are thereby vested and may in the Colony be exercised "and done by any Resident Magistrate in relation to the Surrender "of Fugitive Criminals under the said Acts":

And whereas it is further provided by the said Law that the said Law shall not come into operation until Her Majesty shall by Order in Council direct that the said Law shall have effect within the Colony as if it were part of The Extradition Act, 1870, † but that the said Law shall thereafter come into operation as soon as such Order in Council shall have been publicly made known in the Colony.

Now, therefore, Her Majesty, in pursuance of The Extradition Act, 1870, † and in exercise of the power in that behalf in the said Act contained, doth by this present Order, by and with the advice of Her Majesty's Privy Council, direct that the said Law shall have effect in the Colony of Natal without modification or alteration, as if it were part of The Extradition Act, 1870. †

And the Right Honourable Sir Michael Edward Hicks-Beach, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

* No. 6 of 1877.

† 33 & 34 Vict. c. 52.

‡ 36 & 37 Vict. c. 60.

(r) **Newfoundland.**

ORDER IN COUNCIL DECLARING THAT THE ACT OF 1899 OF THE LEGISLATURE OF NEWFOUNDLAND, MAKING PROVISION WITH REGARD TO THE EXTRADITION OF FUGITIVE CRIMINALS, SHALL HAVE EFFECT IN NEWFOUNDLAND AS IF IT WERE PART OF THE IMPERIAL ACT.

At the Court at Osborne House, Isle of Wight, the 29th day of January, 1900.

PRESENT :

The Queen's Most Excellent Majesty in Council.

Whereas by Section 18 of "The Extradition Act, 1870,"* it is among other things enacted, that if by any law made after the passing of the said Act by the Legislature of any British Possession, provision is made for carrying into effect within such Possession the Surrender of Fugitive Criminals, who are in, or suspected of being in, such British Possession, Her Majesty may, by the Order in Council applying the said Act in the case of any Foreign State, or by any subsequent Order, either :—

Suspend the operation within any such British Possession of the said Act, or of any part thereof, so far as it relates to such Foreign State, and so long as such law continues in force there and no longer :

Or direct that such law or ordinance or any part thereof shall have effect in such British Possession with or without modifications and alterations, as if it were part of the Act :

And whereas on the 19th day of July, 1899, an Act† was passed by the Legislature of Newfoundland, whereby provision is made with regard to the Extradition of Fugitive Criminals from that Colony.

And whereas it is provided by the said Act that the said Act shall not come into force until the assent of Her Majesty shall have been signified thereto.

Now, therefore, Her Majesty, in pursuance of "The Extradition Act, 1870," and in exercise of the power in that behalf in the said Act contained, doth by this present Order, by and with the advice of Her Majesty's Privy Council, direct that the said Act shall have effect in the Colony of Newfoundland without modification or alteration as if it were part of "The Extradition Act, 1870."

And the Right Honourable Joseph Chamberlain, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

A. W. FitzRoy.

* 33 & 34 Vict. c. 52.

† 62 & 63 Vict. c. 11.

(s) New Zealand.

ORDER IN COUNCIL DIRECTING THAT "THE NEW ZEALAND EXTRADITION ACT, 1874," SHALL HAVE EFFECT IN NEW ZEALAND AS IF IT WERE PART OF THE IMPERIAL ACT.

At the Court at Windsor, the 13th day of May, 1875.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.
Lord Chamberlain.
Earl of Derby.

Mr. Secretary Cross.
Sir Charles A. Murray.
Mr. Disraeli.

Whereas * * * [*Here follows the first recital to the Order relating to Bahamas, printed at p. 291 above.*]

And whereas by a certain Bill passed by the Legislative Council and House of Representatives of the Colony of New Zealand in the 38th year of Her Majesty's Reign and numbered 83, the short title of which is The New Zealand Extradition Act 1874, it is enacted that the provisions of the Acts of the Imperial Parliament the short title whereof is The Extradition Acts 1870 * and 1873 † shall be in force and applied in the said Colony subject to the modifications and alterations thereafter contained.

And whereas the said Bill was reserved for the signification of the Queen's pleasure and Her Majesty has been pleased by Order in Council to declare Her Assent to the same.

Now therefore Her Majesty in pursuance of The Extradition Act 1870 * and in exercise of the power in that behalf in the said Act contained doth by this present Order by and with the advice of Her Majesty's Privy Council direct that the said New Zealand Extradition Act 1874 shall have effect in the Colony of New Zealand as if it were part of The Extradition Act of 1870.*

And the Right Honourable the Earl of Carnarvon one of Her Majesty's Principal Secretaries of State is to give the necessary directions herein accordingly.

C. L. Peel.

* 33 & 34 Vict. c. 52.

† 36 & 37 Vict. c. 60.

(t) **Queensland.**

ORDER IN COUNCIL DIRECTING THAT "THE EXTRADITION ACT (QUEENSLAND), 1877," SHALL HAVE EFFECT IN QUEENSLAND AS IF IT WERE PART OF THE IMPERIAL ACT.

At the Court at Windsor, the 26th day of March, 1878.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.	Lord Chamberlain.
Lord Privy Seal.	Earl of Derby.
Duke of Devonshire.	Mr. Watson.

Whereas * * * [*Here follows the first recital to the Order relating to Bahamas, printed at p. 291 above.*]

And whereas by an Act enacted by the Legislature of Queensland, the short title of which is the Extradition Act (Queensland), 1877,* it is provided that "all powers vested in and acts authorised "or required to be done by a Police Magistrate or any Justice of "the Peace in relation to the Surrender of Fugitive Criminals in "the United Kingdom under the Extradition Acts, 1870 † and "1873,‡ are thereby vested in and may in the Colony be exercised "and done by any Police Magistrate in relation to the Surrender "of Fugitive Criminals under the said Acts":

And whereas it is further provided by the said Act that the said Act shall not come into operation until Her Majesty shall by Order in Council direct that the said Act shall have effect within the Colony as if it were part of the Extradition Act, 1870,† but that the said Act shall thereafter come into operation as soon as such Order in Council shall have been publicly made known in the Colony.

Now, therefore, Her Majesty, in pursuance of the Extradition Act, 1870,† and in exercise of the power in that behalf in the said Act contained, doth by this present Order, by and with the advice of Her Majesty's Privy Council, direct that the said Act shall have effect in the Colony of Queensland without modification or alteration, as if it were part of the Extradition Act, 1870.†

And the Right Honourable Sir Michael Edward Hicks-Beach, Baronet, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

* 41 Vict., No. 2.

† 33 & 34 Vict. c. 52.

‡ 36 & 37 Vict. c. 60.

(u) **St. Lucia.**

ORDER IN COUNCIL DIRECTING THAT "THE EXTRADITION ORDINANCE, ST. LUCIA, 1877," SHALL HAVE EFFECT IN ST. LUCIA AS IF IT WERE PART OF THE IMPERIAL ACT.

At the Court at Osborne House, Isle of Wight, the 15th day of January, 1878.

PRESENT :

The Queen's Most Excellent Majesty.

His Royal Highness the Duke of Connaught and Strathearn.

Lord President.
Lord John Manners.
Mr. Secretary Cross.

Whereas * * * [*Here follows the first recital to the Order relating to Bahamas, printed at p. 291 above.*]

And whereas by an Ordinance enacted by the Legislature of St. Lucia, the short title of which is the Extradition Ordinance, St. Lucia, 1877,* it is provided that "all powers vested in and "acts authorised or required to be done by a Police Magistrate "or any Justice of the Peace in relation to the Surrender of Fugitive "Criminals in the United Kingdom under the Extradition Acts, "1870 † and 1873, ‡ are thereby vested in and may in the Colony "be exercised and done by any Stipendiary Magistrate in relation "to the Surrender of Fugitive Criminals under the said Acts ":

And whereas it is further provided by the said Ordinance that the said Ordinance shall not come into operation until Her Majesty shall by Order in Council direct that the said Ordinance shall have effect within the Colony as if it were part of the Extradition Act, 1870, † but that the said Ordinance shall thereafter come into operation as soon as such Order in Council shall have been publicly made known in the Colony :

Now, therefore, Her Majesty, in pursuance of the Extradition Act, 1870, † and in exercise of the power in that behalf in the said Act contained, doth by this present Order, by and with the advice of Her Majesty's Privy Council, direct that the said Ordinance shall have effect in the Colony of St. Lucia without modification or alteration, as if it were part of the Extradition Act, 1870. †

And the Right Honourable the Earl of Carnarvon, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

* No. 45 of the Laws of St. Lucia.
† 36 & 37 Vict. c. 60.

† 33 & 34 Vict. c. 52.

(v) **St. Vincent.**

ORDER IN COUNCIL DIRECTING THAT "THE EXTRADITION ORDINANCE (ST. VINCENT), 1880," SHALL HAVE EFFECT IN ST. VINCENT AS IF IT WERE PART OF THE IMPERIAL ACT.

At the Court at Balmoral, the 6th day of September, 1880.

PRESENT :

The Queen's Most Excellent Majesty.

His Royal Highness Prince Leopold.

Lord President.

Sir Henry Ponsonby.

Whereas * * * [*Here follows the first recital to the Order relating to Bahamas, printed at p. 291 above.*]

And whereas by an Ordinance enacted by the Legislature of St. Vincent, the short title of which is the Extradition Ordinance (St. Vincent), 1880,* it is provided that "all powers vested in "and acts authorised or required to be done by a Police Magistrate "or any Justice of the Peace in relation to the Surrender of Fugitive "Criminals in the United Kingdom under the Extradition Acts, "1870 † and 1873, ‡ are thereby vested in and may in the Colony "be exercised and done by any Police Magistrate in relation to "the Surrender of Fugitive Criminals under the said Acts " :

And whereas it is further provided by the said Ordinance that the said Ordinance shall not come into operation until Her Majesty shall by Order in Council direct that the said Ordinance shall have effect within the Colony as if it were part of the Extradition Act, 1870, † but that the said Ordinance shall thereafter come into operation as soon as such Order in Council shall have been publicly made known in the Colony :

Now, therefore, Her Majesty, in pursuance of the Extradition Act, 1870, † and in exercise of the power in that behalf in the said Act contained, doth by this present Order, by and with the advice of Her Majesty's Privy Council, direct that the said Ordinance shall have effect in the Colony of St. Vincent without modification or alteration, as if it were part of the Extradition Act, 1870. †

And the Right Honourable the Earl of Kimberley, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

* No. 9 of 1880.

† 33 & 34 Vict. c. 52.

‡ 36 & 37 Vict. c. 60.

(w) **Sierra Leone.**

ORDER IN COUNCIL DIRECTING THAT "THE EXTRADITION ORDINANCE, SIERRA LEONE, 1878," SHALL HAVE EFFECT IN SIERRA LEONE AS IF IT WERE PART OF THE IMPERIAL ACT.

At the Court at Windsor, the 27th day of November, 1878.

PRESENT:

The Queen's Most Excellent Majesty.

Lord President.
Lord Privy Seal.
Mr. Secretary Cross.

Whereas * * * [*Here follows the first recital to the Order relating to Bahamas, printed at p. 291 above.*]

And whereas by an Ordinance enacted by the Legislature of Sierra Leone, the short title of which is the Extradition Ordinance, Sierra Leone, 1878,* it is provided that "all powers vested in "and acts authorised or required to be done by a Police Magistrate "or any Justice of the Peace in relation to the Surrender of Fugitive "Criminals in the United Kingdom under the Extradition Acts, "1870 † and 1873,‡ are thereby vested in and may in the Settlement "be exercised and done by any Police Magistrate or Officer acting "in his stead in relation to the Surrender of Fugitive Criminals "under the said Acts":

And whereas it is further provided by the said Ordinance that the said Ordinance shall not come into operation until Her Majesty shall by Order in Council direct that the said Ordinance shall have effect within the Settlement as if it were part of the Extradition Act, 1870,† but that the said Ordinance shall thereafter come into operation as soon as such Order in Council shall have been publicly made known in the Settlement:

Now, therefore, Her Majesty, in pursuance of the Extradition Act, 1870,† and in exercise of the power in that behalf in the said Act contained, doth by this present Order, by and with the advice of Her Majesty's Privy Council, direct that the said Ordinance shall have effect in the settlement of Sierra Leone without modification or alteration, as if it were part of the Extradition Act, 1870.†

And the Right Honourable Sir Michael Edward Hicks-Beach, Bart., one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

* 1878, No. 6.

† 33 & 34 Vict. c. 52.

‡ 36 & 37 Vict. c. 60.

(x) **South Australia.**

ORDER IN COUNCIL DIRECTING THAT "THE EXTRADITION ACT, 1877" (ENACTED BY THE LEGISLATURE OF SOUTH AUSTRALIA), SHALL HAVE EFFECT IN SOUTH AUSTRALIA AS IF IT WERE PART OF THE IMPERIAL ACT.

At the Court at Windsor, the 12th day of December, 1877.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.
Lord Privy Seal.
Earl of Derby.

Mr. Secretary Cross.
Mr. Thesiger.

Whereas * * * [*Here follows the first recital to the Order relating to Bahamas, printed at p. 291 above.*]

And whereas by an Act enacted by the Legislature of South Australia, the short title of which is the Extradition Act, 1877,* it is provided that "all powers vested in and acts authorised or required to be done by a Police Magistrate or any Justice of the Peace in relation to the Surrender of Fugitive Criminals in the United Kingdom under the Extradition Acts, 1870 † and 1873, ‡ are thereby vested in and may in the Colony be exercised and done by any Justice of the Peace in relation to the Surrender of Fugitive Criminals under the said Acts":

And whereas it is further provided by the said Act that the said Act shall not come into operation until Her Majesty shall by Order in Council direct that the said Act shall have effect within the Colony as if it were part of the Extradition Act, 1870, † but that the said Act shall thereafter come into operation as soon as such Order in Council shall have been publicly made known in the Colony.

Now, therefore, Her Majesty, in pursuance of the Extradition Act, 1870, † and in exercise of the power in that behalf in the said Act contained, doth by this present Order, by and with the advice of Her Majesty's Privy Council, direct that the said Act shall have effect in the Colony of South Australia without modification or alteration, as if it were part of the Extradition Act, 1870. †

And the Right Honourable the Earl of Carnarvon, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

* No. 59 of 1877.

† 33 & 34 Vict. c. 52.

‡ 36 & 37 Vict. c. 60.

(y) Straits Settlements.*

ORDER IN COUNCIL DIRECTING THAT "THE EXTRADITION ORDINANCE, 1877" (ENACTED BY THE LEGISLATURE OF THE STRAITS SETTLEMENTS), SHALL HAVE EFFECT IN THE STRAITS SETTLEMENTS AS IF IT WERE PART OF THE IMPERIAL ACT.

At the Court at Windsor, the 11th day of July, 1877.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.

Lord Chamberlain.

Mr. Secretary Cross.

Whereas * * * [*Here follows the first recital to the Order relating to Bahamas, printed at p. 291 above.*]

And whereas by an Ordinance numbered 4 of 1877, enacted by the Legislature of the Straits Settlements, the short title of which is, the Extradition Ordinance, 1877, it is provided that "all powers vested in and acts authorised or required to be done by a Police Magistrate or any Justice of the Peace in relation to the Surrender of Fugitive Criminals in the United Kingdom under the Extradition Acts, 1870[†] and 1873,[‡] are thereby vested in and may in the Colony be exercised and done by any Police Magistrate in relation to the Surrender of Fugitive Criminals under the said Acts":

And whereas it is further provided by the said Ordinance that the said Ordinance shall not come into operation until Her Majesty shall by Order in Council direct that the said Ordinance shall have effect within the Colony as if it were part of the Extradition Act, 1870,[†] but that the said Ordinance shall thereafter come into operation as soon as such Order in Council shall have been publicly made known in the Colony.

Now, therefore, Her Majesty, in pursuance of The Extradition Act, 1870,[†] and in exercise of the power in that behalf in the said Act contained, doth by this present Order, by and with the advice of Her Majesty's Privy Council, direct that the said Ordinance shall have effect in the Colony of the Straits Settlements without modification or alteration, as if it were part of The Extradition Act, 1870.[†]

And the Right Honourable the Earl of Carnarvon, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

* The Order in Council of August 19, 1889, providing for the Surrender of Persons by the Governor of the Straits Settlements to Foreign States in cases where the Extradition Act, 1870, does not apply, is, as amended in 1901, printed under the title "Straits Settlements."

[†] 33 & 34 Vict. c. 52.

[‡] 36 & 37 Vict. c. 60.

(z) **Tasmania.**

ORDER IN COUNCIL DIRECTING THAT "THE EXTRADITION ACT, TASMANIA, 1877," SHALL HAVE EFFECT IN TASMANIA AS IF IT WERE PART OF THE IMPERIAL ACT.

At the Court at Osborne House, Isle of Wight, the 18th day of April, 1878.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.

Mr. Chancellor of the Exchequer.

Mr. W. H. Smith.

Whereas * * * [*Here follows the first recital to the Order relating to Bahamas, printed at p. 291 above.*]

And whereas by an Act enacted by the Legislature of Tasmania the short title of which is The Extradition Act, Tasmania, 1877,* it is provided that "all powers vested in and acts authorised or "required to be done by a Police Magistrate or any Justice of the "Peace in relation to the Surrender of Fugitive Criminals in the "United Kingdom under The Extradition Acts, 1870 † and 1873, ‡ "are thereby vested in and may in Tasmania be exercised and "done by the Police Magistrates at Hobart Town and Launceston "respectively in relation to the Surrender of Fugitive Criminals "under the said Acts":

And whereas it is further provided by the said Act that the said Act shall not come into operation until Her Majesty shall by Order in Council direct that the said Act shall have effect within the Colony as if it were part of the Extradition Act, 1870, † but that the said Act shall thereafter come into operation as soon as such Order in Council shall have been publicly made known in the Colony.

Now, therefore, Her Majesty, in pursuance of The Extradition Act, 1870, † and in exercise of the power in that behalf in the said Act contained, doth by this present Order, by and with the advice of Her Majesty's Privy Council, direct that the said Act shall have effect in the Colony of Tasmania without modification or alteration, as if it were part of The Extradition Act, 1870. †

And the Right Honourable Sir Michael Edward Hicks-Beach, Bart., one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

* 41 Vict. No. 29.

† 33 & 34 Vict. c. 52.

‡ 36 & 37 Vict. c. 60.

(aa) **Trinidad and Tobago.**

ORDER IN COUNCIL DIRECTING THAT "THE EXTRADITION ORDINANCE OF THE COLONY OF TOBAGO, 1880," SHALL HAVE EFFECT IN TOBAGO AS IF IT WERE PART OF THE IMPERIAL ACT.

At the Court at Windsor, the 28th day of June, 1880.

PRESENT :

The Queen's Most Excellent Majesty in Council.

Lord President.

Lord Chamberlain.

Earl Granville.

Mr. Gladstone.

Whereas * * * [*Here follows the first recital to the Order relating to Bahamas, printed at p. 291 above.*]

And whereas by an Ordinance enacted by the Legislature of Tobago, the short title of which is The Extradition Ordinance of the Colony of Tobago, 1880,* it is provided that "all powers vested in and acts authorised or required to be done by a Police Magistrate or any Justice of the Peace in relation to the Surrender of Fugitive Criminals in the United Kingdom under The Extradition Acts, 1870† and 1873,‡ are thereby vested in and may in the Colony be exercised and done by any Police Magistrate in relation to the Surrender of Fugitive Criminals under the said Acts":

And whereas it is further provided by the said Ordinance that the said Ordinance shall not come into operation until Her Majesty shall by Order in Council direct that the said Ordinance shall have effect within the Colony as if it were part of the Extradition Act, 1870,† but that the said Ordinance shall thereafter come into operation as soon as such Order in Council shall have been publicly made known in the Colony:

Now, therefore, Her Majesty, in pursuance of The Extradition Act, 1870,† and in exercise of the power in that behalf in the said Act contained, doth by this present Order, by and with the advice of Her Majesty's Privy Council, direct that the said Ordinance shall have effect in the Colony of Tobago without modification or alteration, as if it were part of the Extradition Act, 1870.†

And the Right Honourable the Earl of Kimberley, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

* No. 4, 1880.

† 33 & 34 Vict. c. 52.

‡ 36 & 37 Vict. c. 60.

ORDER IN COUNCIL DIRECTING THAT "THE EXTRADITION ORDINANCE (TRINIDAD), 1877," SHALL HAVE EFFECT IN TRINIDAD AS IF IT WERE PART OF THE IMPERIAL ACT.

At the Court at Windsor, the 11th day of July, 1877.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.
Lord Chamberlain.

Mr. Secretary Cross.

Whereas * * * [*Here follows the first recital to the Order relating to Bahamas, printed at p. 291 above.*]

And whereas by an Ordinance enacted by the Legislature of Trinidad, the short title of which is The Extradition Ordinance (Trinidad), 1877,* it is provided that "all powers vested in and "acts authorised or required to be done by a Police Magistrate "or any Justice of the Peace in relation to the Surrender of Fugitive "Criminals in the United Kingdom under The Extradition Acts, "1870 † and 1873, ‡ are thereby vested in and may in the Colony be "exercised and done by any Police Magistrate in relation to the "Surrender of Fugitive Criminals under the said Acts " :

And whereas it is further provided by the said Ordinance that the said Ordinance shall not come into operation until Her Majesty shall by Order in Council direct that the said Ordinance shall have effect within the Colony as if it were part of the Extradition Act, 1870, † but that the said Ordinance shall thereafter come into operation as soon as such Order in Council shall have been publicly made known in the Colony.

Now, therefore, Her Majesty, in pursuance of The Extradition Act, 1870, † and in exercise of the power in that behalf in the said Act contained, doth by this present Order, by and with the advice of Her Majesty's Privy Council, direct that the said Ordinance shall have effect in the Colony of Trinidad without modification or alteration, as if it were part of The Extradition Act, 1870. †

And the Right Honourable the Earl of Carnarvon, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

* No. 7 of 1877.

† 33 & 34 Vict. c. 52.

‡ 36 & 37 Vict. c. 60.

ORDER IN COUNCIL AS TO EXTRADITION FROM FRENCH GUIANA TO TRINIDAD.

1894. No. 543.

At the Court at Windsor, the 20th day of November, 1894.

PRESENT :

The Queen's Most Excellent Majesty.

His Royal Highness Prince Henry of Battenberg.

Lord Preston.

Earl Spencer.

Earl of Kimberley

Lord Justice Rigby.

Sir Julian Pauncefote.

Whereas * * * [*Here follows the first recital to the Order relating to Bahamas, printed at p. 291 above.*]

And whereas on the 9th day of April 1894, an Ordinance* was enacted by the Legislature of Trinidad whereby provision is made with regard to the extradition of fugitive criminals from French Guiana :

And whereas it is provided by the said Ordinance that the said Ordinance shall come into operation and take effect only after Her Majesty shall by Order in Council direct that the said ordinance shall have effect within the colony, and after such Order in Council shall have been published in the Official "Gazette."

Now, therefore, Her Majesty, in pursuance of the Extradition Act, 1870,* and in exercise of the power in that behalf in the said Act contained, doth by this present Order, by and with the advice of Her Majesty's Privy Council, direct that the said Ordinance shall have effect in the colony of Trinidad without modification or alteration, as if it were part of the Extradition Act, 1870.†

And the Most Honourable the Marquess of Ripon, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

* No. 11 of 1894.

† 33 & 34 Vict. c. 52.

(bb) Victoria.

ORDER IN COUNCIL DIRECTING THAT "THE EXTRADITION ACT OF VICTORIA, 1877," SHALL HAVE EFFECT IN VICTORIA AS IF IT WERE PART OF THE IMPERIAL ACT.

At the Court at Windsor, the 16th day of May, 1878.

PRESENT:

The Queen's Most Excellent Majesty.

Lord President.		Earl of Beaconsfield.
Lord Chamberlain.		Mr. Secretary Cross.

Whereas * * * [*Here follows the first recital to the Order relating to Bahamas, printed at p. 291 above.*]

And whereas by an Act enacted by the Legislature of Victoria, the short title of which is The Extradition Act of Victoria, 1877,* it is provided that "all powers vested in and acts authorised or "required to be done by a Police Magistrate or any Justice of the "Peace in relation to the Surrender of Fugitive Criminals in the "United Kingdom under The Extradition Acts, 1870 † and 1873,‡ "are thereby vested in and may in the Colony be exercised and "done by any Police Magistrate in relation to the Surrender of "Fugitive Criminals under the said Acts":

And whereas it is further provided by the said Act that the said Act shall not come into operation until Her Majesty shall by Order in Council direct that the said Act shall have effect within the Colony as if it were part of the Extradition Act, 1870,† but that the said Act shall thereafter come into operation as soon as such Order in Council shall have been publicly made known in the Colony.

Now, therefore, Her Majesty, in pursuance of the Extradition Act, 1870,† and in exercise of the power in that behalf in the said Act contained, doth by this present Order, by and with the advice of Her Majesty's Privy Council, direct that the said Act shall have effect in the Colony of Victoria, without modification or alteration, as if it were part of the Extradition Act, 1870.†

And the Right Honourable Sir M. E. Hicks-Beach, Bart., one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

* 41 Vict., No. 588.

† 33 & 34 Vict. c. 52.

‡ 36 & 37 Vict. c. 60.

(cc) **Western Australia.**

ORDER IN COUNCIL DIRECTING THAT "THE EXTRADITION ACT, WESTERN AUSTRALIA, 1877," SHALL HAVE EFFECT IN WESTERN AUSTRALIA AS IF IT WERE PART OF THE IMPERIAL ACT.

At the Court at Osborne House, Isle of Wight, the 4th day of February, 1878.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.

Lord Privy Seal.

Sir Michael Edward Hicks-Beach, Bart.

Sir Thomas Myddelton-Biddulph.

Whereas * * * [*Here follows the first recital to the Order relating to Bahamas, printed at p. 291 above.*]

And whereas by an Act enacted by the Legislature of Western Australia, the short title of which is The Extradition Act, Western Australia, 1877,* it is provided that "all powers vested in and acts "authorised or required to be done by a Police Magistrate or any "Justice of the Peace in relation to the Surrender of Fugitive "Criminals in the United Kingdom under The Extradition Acts, "1870 † and 1873, ‡ are thereby vested in and may in the Colony "be exercised and done by any Police Magistrate in relation to the "Surrender of Fugitive Criminals under the said Acts" :

And whereas it is further provided by the said Act that the said Act shall not come into operation until Her Majesty shall by Order in Council direct that the said Act shall have effect within the Colony as if it were part of The Extradition Act, 1870, † but that the said Act shall thereafter come into operation as soon as such Order in Council shall have been publicly made known in the Colony.

Now, therefore, Her Majesty, in pursuance of the Extradition Act, 1870, † and in exercise of the power in that behalf in the said Act contained, doth by this present Order, by and with the advice of Her Majesty's Privy Council, direct that the said Act shall have effect in the Colony of Western Australia without modification or alteration, as if it were part of the Extradition Act, 1870. †

And the Right Honourable Sir Michael Edward Hicks-Beach, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

* 41 Vict., No. 1. † 33 & 34 Vict. c. 52. ‡ 36 & 37 Vict. c. 80.

2. Under Fugitive Offenders Act.*

Inter-Colonial Backing of Warrants and application of Acts to places under British Jurisdiction.

ORDERS IN COUNCIL APPLYING PART II. OF THE FUGITIVE OFFENDERS ACT, 1881, TO GROUPS OF BRITISH POSSESSIONS.

(a) Australasian Colonies.

At the Court at Osborne House, Isle of Wight, the 23rd day of August, 1883.

PRESENT : .

The Queen's Most Excellent Majesty.

Lord President.
Marquis of Hartington.
Lord Steward.

Whereas by reason of the contiguity of the Australasian Colonies, including New Zealand and Fiji, and the frequent intercommunication among them, it seems expedient to Her Majesty, and conducive to the better administration of justice therein, that Part II. of the Fugitive Offenders Act, 1881,† should apply to the said Colonies.

Now, therefore, Her Majesty, by virtue of the powers in this behalf by the Fugitive Offenders Act, 1881,† or otherwise, in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered as follows :—

On and after the 1st day of January, 1884, Part. II. of the Fugitive Offenders Act, 1881,† shall apply to the group of British Possessions hereunder mentioned ; that is to say,—

New South Wales,‡
Victoria,‡
South Australia,‡
Queensland,‡
New Zealand,
Tasmania,‡
Western Australia,‡ and
Fiji.

2. The Governor of each of the said Possessions shall cause this Order to be proclaimed in the Colony under his government.

C. L. Peel.

* The Orders in Council under the Foreign Jurisdiction Acts, many of which apply the Fugitive Offenders Act, 1881, to Territories and Protectorates, are printed under the title "Foreign Jurisdiction."

† 44 & 45 Vict. c. 69.

‡ Now included in the Commonwealth of Australia.

(b) **West Indian Colonies.**

At the Court at Windsor, the 29th day of November, 1884.

PRESENT :

The Queen's Most Excellent Majesty.

Lord President.

Earl Granville.

Lord Steward.

Mr. Campbell Bannerman.

Whereas it seems expedient to Her Majesty, and conducive to the better administration of justice in Her West Indian Colonies, including the Bahamas and British Honduras, that Part II. of the Fugitive Offenders Act, 1881,* should apply to the said Colonies.

Now, therefore, Her Majesty, by virtue of the powers in this behalf, by the Fugitive Offenders Act, 1881,* or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered as follows :—

On and after the date of this Order, Part II. of the Fugitive Offenders Act, 1881,* shall apply to the group of British Possessions hereunder mentioned ; that is to say,—

Jamaica,
Turks and Caicos Islands,†
British Guiana,
Trinidad,‡
The Leeward Islands,
Barbados,
St. Vincent,§
Grenada,§
St. Lucia,§
Tobago,‡
The Bahamas, and
British Honduras.

Provided that the said Part II. of the Act shall, in the above-mentioned Possessions, apply only to the offences to which Part I. of the said Act applies.

Provided also that no summons or other process shall be endorsed in any of the said Possessions requiring any person to attend as a witness in any other of the said Possessions on a charge for any offence other than treason, treason-felony, murder or rape unless it is shown to the satisfaction of the judge, magistrate, or other officer endorsing such summons or process that such person can obey the summons or process without being absent from such first-mentioned Possession for a period exceeding 14 days.

Provided also that no person shall be bound to obey any summons or process endorsed in pursuance of the said 15th section in any of the said Possessions except on payment or under not only of a reasonable sum for his expenses but also of a further reasonable

* 44 & 45 Vict. c. 69.

† These Islands are a dependency of Jamaica.

‡ Trinidad and Tobago now form one Colony.

§ Now comprised in the government of the Windward Islands.

sum as compensation for any loss which such person or his or her family would sustain by reason of his or her absence from his or her place of residence for the purpose of obeying such summons or process and the amount to be so paid or tendered shall be determined in case of difference by the judge magistrate or officer by whom the summons or process is endorsed.

The Governor of each of the said Possessions shall cause this Order to be proclaimed in the Colony under his Government.

C. L. Peel.

(c) India, Ceylon, and the Straits Settlements.

At the Court at Windsor, the 12th day of December, 1885.

PRESENT :

The Queen's Most Excellent Majesty in Council.

Whereas by reason of the contiguity of the group of British Possessions hereinafter mentioned, and the frequent intercommunication between those possessions, it seems expedient to Her Majesty and conducive to the better administration of justice therein, to apply Part II. of the Fugitive Offenders Act, 1881,* thereto.

Now, therefore, Her Majesty, by virtue of the powers in this behalf by the Fugitive Offenders Act, 1881,* or otherwise vested in Her Majesty, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

1. On and after the 1st day of July 1886, Part II. of the Fugitive Offenders Act, 1881,* shall apply to the group of British Possessions hereunder mentioned ; that is to say,—

Her Majesty's East Indian Territories,
Ceylon,
The Straits Settlements.

2. The Governor General of India and the Governors of Ceylon and the Straits Settlements shall cause this Order to be proclaimed in the Territories and Colonies under their respective Governments.

And the Right Honourable Lord Randolph Churchill, and the Right Honourable Frederick A. Stanley, two of Her Majesty's Principal Secretaries of State, are to give the necessary directions herein accordingly.

C. L. Peel.

* 44 & 45 Vict. c. 69.

**(d) The Straits Settlements, Hong Kong, and
Labuan.**

At the Court at Windsor, the 12th day of December, 1885.

PRESENT :

The Queen's Most Excellent Majesty in Council.

Whereas by reason of the contiguity of the group of British possessions hereinafter mentioned and the frequent intercommunication between those possessions it seems expedient to Her Majesty and conducive to the better administration of justice therein, to apply Part. II. of the Fugitive Offenders Act, 1881,* thereto.

Now, therefore, Her Majesty, by virtue of the powers in this behalf by the Fugitive Offenders Act, 1881,* or otherwise vested in Her Majesty, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

1. On and after the 1st day of July, 1886, Part II. of the Fugitive Offenders Act, 1881,* shall apply to the group of British possessions hereunder mentioned, that is to say,—
The Straits Settlements,
Hong Kong,
Labuan.
2. The Governors of the Straits Settlements, Hong Kong, and Labuan shall cause this Order to be proclaimed in the Colonies under their respective Governments.

And the Right Honourable Frederick A. Stanley, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

* 44 & 45 Vict. c. 69.

ORDERS IN COUNCIL APPLYING THE FUGITIVE OFFENDERS ACT, 1881,
TO CERTAIN COLONIES, POSSESSIONS, AND TERRITORIES.*

(a) **South African Possessions and Territories.**

1901. No. 662.

At the Court at St. James's, the 8th day of August, 1901.

PRESENT :

The King's Most Excellent Majesty.

Lord President.

Lord Chamberlain.

Earl of Kintore.

Earl Waldegrave.

Whereas by an Order of Her late Majesty Queen Victoria in Council, dated the 17th day of November 1888,[†] it was provided that Part 2 of the Fugitive Offenders Act, 1881,[‡] should apply to the group of British Possessions therein mentioned :

And whereas by a further Order of Her late Majesty in Council, dated the 12th day of December, 1891,[§] it was provided that the Fugitive Offenders Act, 1881, should apply as if the territories within the limits of Part 1 of the said Order were a British Possession, and that Part 2 of the said Act should apply to the British Possessions named in the aforesaid Order of the 17th day of November, 1888, and to the parts of South Africa mentioned in the said Order of the 12th day of December, 1891 :

And whereas by an Order of Her late Majesty in Council, dated the 3rd day of October, 1895,^{||} it was provided that the Governor of the Colony of the Cape of Good Hope might declare by Proclamation that on the date named in such Proclamation the territory of British Bechuanaland should be annexed to and form part of the Colony of the Cape of Good Hope, and by Proclamation by the said Governor dated the 11th day of November, 1895, the territory of British Bechuanaland was on the 16th day of November, 1895, annexed to and became part of the said Colony :

And whereas by Letters Patent passed under the Great Seal of the United Kingdom dated the 1st day of December, 1897,[¶] the Governor for the time being of the Colony of Natal was authorised by Proclamation to declare that, from and after a date in such Proclamation to be mentioned, the British Possession of Zululand should be annexed to and form part of the Colony of Natal, and such Proclamation was duly made on the 29th day of December, 1897, and the said Possession of Zululand was from and after the 30th day of December, 1897, annexed to and became part of the said Colony :

* The Orders in Council under the Foreign Jurisdiction Acts, many of which apply the Fugitive Offenders Act, 1881, to Territories and Protectorates, are printed under the title "Foreign Jurisdiction."

† Printed in Statutory Rules and Orders Revised (1st Edition), Vol. 3, p. 280.

‡ 44 & 45 Vict. c. 69.

§ Printed in Statutory Rules and Orders, 1891, p. 307.

|| Printed under the title "Cape of Good Hope."

¶ Printed under the title "Natal."

And whereas by a Proclamation dated the 24th day of May, 1900,* certain territories in South Africa theretofore known as the Orange Free State were annexed to and now form part of His Majesty's Dominions and are known as the Orange River Colony :

And whereas by a Proclamation dated the 1st day of September, 1900,† certain territories in South Africa theretofore known as the South African Republic were annexed to and now form part of His Majesty's Dominions and are known as the Transvaal :

And whereas by treaty, grant, usage, sufferance and other lawful means, His Majesty has power and jurisdiction in the territories of South Africa known as the Bechuanaland Protectorate, Southern Rhodesia, Barotsiland, North-Western Rhodesia, North-Eastern Rhodesia, and the British Central Africa Protectorate :

And whereas by reason of the contiguity of the aforesaid Colonies and Possessions in South Africa and the said territories, and the frequent inter-communication between them, it seems expedient to His Majesty and conducive to the better administration of justice therein that Part 2 of the Fugitive Offenders Act, 1881, should apply to the said Colonies, Possessions, and territories, and that, subject to the provision of this Order, the Fugitive Offenders Act, 1881, should apply as if the said territories respectively were British Possessions.

Now, therefore, His Majesty, by virtue of the powers in this behalf by the Fugitive Offenders Act, 1881, the Foreign Jurisdiction Act, 1890, or otherwise in His Majesty vested, is pleased by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. Subject to the provisions of this Order the Fugitive Offenders Act, 1881, shall apply as if the territories named in the First Schedule of this Order were a British Possession.

2. In the Fugitive Offenders Act, 1881, as hereby applied to the territories named in Schedule 1 of this Order and in this Order with reference to the said territories, unless the context otherwise requires, the expression "Governor" means the officer for the time being exercising the functions,

(a) As regards the Bechuanaland Protectorate, Southern Rhodesia, and Barotsiland, North-Western Rhodesia, of High Commissioner of South Africa,

(b) As regards the British Central Africa Protectorate and North-Eastern Rhodesia, of Commissioner and Consul General.

3. The jurisdiction under Part 1 of the Fugitive Offenders Act, 1881, to hear a case and commit a fugitive to prison to await his return may be exercised in the territories named in Schedule 1 of this Order by any person having in the said territories authority to issue a warrant for the apprehension of persons accused of crime and to commit such persons for trial.

4. Part 2 of the Fugitive Offenders Act, 1881, shall apply to

* Printed under the title "Orange River Colony."

† Printed under the title "Transvaal."

the Colonies, Possessions, and territories mentioned in Schedules 1 and 2 of this Order.

5. The Governor of each of the Colonies, Possessions, and territories named in the Schedules to this Order shall cause this Order to be proclaimed therein and this Order shall come into operation on a day to be fixed by such proclamation.

6. The Orders of Her late Majesty Queen Victoria in Council of the 17th day of November, 1888, and the 12th day of December, 1891, shall, as from the date of the coming into operation of this Order, be revoked, without prejudice to anything lawfully done thereunder, or to any proceedings commenced before the said date.

A. W. FitzRoy.

Schedule 1.

The Bechuanaland Protectorate.
Southern Rhodesia.
Barotsiland, North-Western Rhodesia.
British Central Africa Protectorate.
North-Eastern Rhodesia.

Schedule 2.

The Colony of the Cape of Good Hope.
The Colony of Natal.
Basutoland.
The Orange River Colony.
The Transvaal.

(b) West African Possessions and Territories.

1902. No. 467.

At the Court at Buckingham Palace, the 11th day of June, 1902.

PRESENT :

The King's Most Excellent Majesty.

Lord President.
Earl of Kintore.

| Lord Balfour of Burleigh.
| Sir John Winfield Bonser.

Whereas by treaty, grant, usage, sufferance, or other lawful means, His Majesty has power and jurisdiction in the territories of West Africa known as the Gambia Protectorate, the Sierra

Leone Protectorate, the Lagos Protectorate, the Northern Territories of the Gold Coast, Northern Nigeria, and Southern Nigeria :

And whereas by reason of the contiguity of the said territories and of the colonies and possessions of His Majesty in West Africa known as the Gambia, Sierra Leone, the Gold Coast, Ashanti, and Lagos, and the frequent inter-communication between them, it seems expedient to His Majesty and conducive to the better administration of justice therein that Part II. of the Fugitive Offenders Act, 1881,* should apply to the said colonies, possessions, and territories, and that subject to the provisions of this Order the Fugitive Offenders Act, 1881, should apply as if the said territories respectively were British possessions.

Now, therefore, His Majesty, by virtue of the powers in this behalf by the Fugitive Offenders Act, 1881, the Foreign Jurisdiction Act, 1890,† or otherwise in His Majesty vested, is pleased by and with the advice of His Privy Council to order, and it is hereby ordered, as follows:—

1. This Order may be cited as “The West African Possessions and Protectorates (Fugitive Offenders) Order in Council, 1902.”
2. Subject to the provisions of this Order the Fugitive Offenders Act, 1881,* shall apply as if each of the territories named in the first schedule of this Order were a British possession.
3. In the Fugitive Offenders Act, 1881, as hereby applied to the territories named in Schedule I. of this Order and in this Order with reference to the said territories unless the context otherwise requires the expression “Governor” means the Officer for the time being exercising the functions:—
 - (a) As regards the Gambia Protectorate, the Sierra Leone Protectorate, and the Lagos Protectorate, of Governor in the Gambia, Sierra Leone, and Lagos respectively,
 - (b) As regards the Northern Territories of the Gold Coast, of Chief Commissioner,
 - (c) As regards Northern Nigeria and Southern Nigeria, of High Commissioner of Northern Nigeria and Southern Nigeria respectively.
4. The jurisdiction under Part I. of the Fugitive Offenders Act, 1881, to hear a case and commit a fugitive to prison to await his return may be exercised in the territories named in Schedule I. of this Order by any person having in the said territories authority to issue a warrant for the apprehension of persons accused of crime and to commit such persons for trial.
5. Part II. of the Fugitive Offenders Act, 1881, shall apply to the colonies, possessions, and territories mentioned in Schedules 1 and 2 of this Order.
6. The Governor or High Commissioner, as the case may be,

* 44 & 45, Vict. c. 69.

† 53 & 54 Vict. c. 37.

of each of the colonies, possessions, and territories, named in the Schedules to this Order shall cause this Order to be proclaimed therein and this Order shall come into operation on a day to be fixed by such Proclamation.

7. His Majesty may from time to time revoke, alter, add to, or amend this Order.

A. W. FitzRoy.

Schedule I.

The Gambia Protectorate.
The Sierra Leone Protectorate.
The Lagos Protectorate.
The Northern Territories of the Gold Coast.
Northern Nigeria.
Southern Nigeria.

Schedule II.

The Gambia.
Sierra Leone.
The Gold Coast.
Ashanti.
Lagos.

E. J. C. A. 7/27/17

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